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ADOPTED

March 15, 1990

M E M O R A N D U M

TO: Boston Redevelopment Authority and
Stephen Coyle, Director

FROM: Linda Bourque, Assistant Director for Neighborhood
Planning and Zoning
Paul Barrett, Assistant Director for Harbor Planning &
Development
Victor Karen, Deputy Director for Harbor Planning &
Development
Gary Brown, Planning Officer

SUBJECT: Proposed Permanent Harborpark Zoning for Dorchester
Bay/Neponset River Waterfront
Reaffirmation of Approval of Harborpark Zoning for
North End/Downtown Waterfront
Incorporation of South Boston Maritime Economy Reserve
District into Proposed Permanent Harborpark District

Executive

Summary: Pursuant to Article 27C, the Harborpark Interim
Planning Overlay District, permanent zoning is proposed
for the Dorchester Bay/Neponset River Waterfront. The
proposed zoning is a major product of the comprehensive
Interim Planning Overlay District. The overall goals
of the Harborpark zoning include: providing public
access to the waterfront, protecting and enhancing
maritime industries, and managing growth for mixed-use
development. An extensive public participation process
has taken place since Harborpark's inception. Staff
requests that the Boston Redevelopment Authority
authorize the Director to petition the Zoning
Commission to adopt text and map amendments for final
zoning of the Dorchester Bay/Neponset River Waterfront
area of the Harborpark Interim Planning Overlay
District. The North End/Downtown Waterfront and
Dorchester Bay/Neponset River Waterfront Zoning
Amendments and the South Boston MER have been combined
into one amendment, Article 42, and staff seeks
ratification of the North End/Downtown Waterfront
Zoning. It is anticipated that the Zoning Commission
will consider formal adoption of this Article 42 in
March 1990.

DORCHESTER BAY/NEPONSET RIVER WATERFRONT

Public Comment

At the public hearing on January 11, 1990, staff presented

to the Board for consideration the proposed Harborpark District permanent zoning for the Dorchester Bay/Neponset River Waterfront. This proposal was taken under advisement in order to consider public testimony and further review the provisions of the zoning. Considerable testimony was presented in support of the proposed zoning by the Harborpark Advisory Committee, several City Councilors and other City and State representatives, the Pope's Hill Civic Association, the Cedar Grove Civic Association, the Clam Point Civic Association, the Columbia/Savin Hill Civic Association, and over thirty-two letters of support from other groups and individuals were submitted. The support was generally based on the recognition of the Plan as a well balanced set of land use regulations that support open space, affordable housing, maritime jobs, a mixed-use economy and public benefits related to the Harbor and water-dependent and cultural uses. No one spoke against the proposed zoning.

Since the public hearing on January 11, 1990 we have met with property owners in the Cedar Grove area. In response to some of their concerns we are recommending to change the proposed Cedar Grove Waterfront Service Subdistrict (WS) to Waterfront Manufacturing (WM) and to allow residential uses, subject to Article 31 review and a minimum lot area requirement. In the Neponset River Waterfront Service Subdistrict (WS) we also are recommending that residential uses be allowed subject, to Article 31 and a minimum lot area, and that marina uses are not limited.

Overview

The Harborpark planning process began in 1984 when the Flynn Administration established the Harborpark Advisory Committee (HPAC). This 15-member group includes representatives of key harbor constituencies and waterfront neighborhoods who advise the city on policy and development affecting the harbor. In March 1987, the Harborpark Interim Planning Overlay District (IPOP) was created. The IPOP defined goals for the harbor and established temporary zoning to assure appropriate growth and to protect the Waterfront from inappropriate uses, permitted by the underlying zoning, while permanent zoning was being established.

The Harborpark IPOP grew out of the IPOP established in 1985 for the Port Norfolk neighborhood. Port Norfolk represented a microcosm of many of the planning issues facing the entire harbor including outdated zoning, changing land use patterns and demands, and lack of land use direction. The permanent zoning for Port Norfolk, adopted in July of 1988, revised the outdated zoning to reflect a balance of uses including open space, residential and waterfront service zoning districts.

Since the Harborpark IPOP was created, a comprehensive planning study has been developed for the North End/Downtown, South Boston, Dorchester Bay/Neponset River and Charlestown

Waterfronts, as part of the Harborpark District Plan. The results of the study include recommendations on land use, open space, public access, building setbacks, urban design, affordable housing, transportation, and commercial/industrial uses. These regulations take into account the state tidelands policy as expressed in Chapter 91 of the General Laws and proposed new implementing regulations. Chief among these are public access and public benefits. The proposed zoning addresses the original concerns of the community relating to waterfront uses and particularly access to the Harbor.

The intent of the Harborpark Plan is to ensure that there is a balance of accessible places on the waterfront for all residents of the city to live, work, and gather for recreation or the enjoyment of nature, and at the same time assure that the economic health of the waterfront enhances the quality of life in the City. The three overall goals of the Harborpark District Zoning are:

- ▲ to provide public access to the waterfront's unique opportunities for recreation, economic activity and housing;
- ▲ to protect and enhance the waterfront's maritime industries, which require deep-water shipping channels and land-side facilities on the Harbor; and
- ▲ to manage growth so that appropriately-designed mixed-use development brings vitality to the waterfront and benefits of that development are shared by residents of all the city's neighborhoods.

Public Access and Open Space

In the Harborpark District as a whole, new zoning sets aside more than 1000 acres of waterfront land as open space. In the Dorchester Bay/Neponset River Waterfront area alone over 240 acres of publicly held land is proposed to be zoned as open space.

A primary goal of the Harborpark Plan is to ensure public access to Boston's waterfront for recreational, residential and industrial or commercial uses. Today's development will be guided by a view of the waterfront as a public resource to be protected from too much privatization.

In order to ensure that public access to the waterfront is maintained, open space and setback requirements will be established. Thirty percent of all project sites in a Waterfront Service District must be preserved as open space with a major portion dedicated to the public. This includes setback provisions of 35 feet from the high tide line and ends of piers

and 12 foot setbacks from the sides of all piers. Public access requirements require projects to provide a continuous walkway along the water, open to the public. This waterfront walkway system, Harborwalk, is designed to create public access to and along the entire harbor, leading to active and passive recreational and water transportation facilities.

Chapter 91.

Policies relevant to the proposed Chapter 91 Tidelands regulations for public access, water dependent uses and activation of the waterfront are incorporated into the Harborpark zoning. In accordance with the provisions of Chapter 91 for any proposed project subject to Chapter 91, the City must submit a determination of proper public purpose. The BRA's determination will be based, among other policies, upon the extent to which a project appropriately preserves and enhances visual access to the water, rights to fishing, fowling and navigation, physical access to and along the water's edge, the preservation of the historic character of a project's site, public recreational opportunities at the water's edge, open space for public use and enjoyment, interest in industrial and commercial waterborne transportation of goods and persons, and interest in repair and rehabilitation of dilapidated piers that blight the Harbor and limit public access.

Waterfront Service Subdistricts

The Harborpark zoning calls for the designation of certain waterfront sections as Waterfront Service (WS) Subdistricts. The WS Subdistricts which would be established as a new zoning district in the Boston Zoning Code would accommodate the continued use of the area as open space while allowing for smaller-scale water-dependent and water-related uses including small boat repair, equipment installation and boat storage and servicing. It supports the need for preserving open space in addition to the needs of the boating industry and maritime and industrial uses. The purposes of the Waterfront Service Subdistricts are to provide open space and public access and to preserve piers, docks and land necessary for the repair, maintenance and sale of commercial and private pleasure craft; provide appropriate areas for the sale of marine fuel and boating supplies; protect against encroachment of uses that threaten the continued economic viability of these specialized operations in Boston; designate sites along the waterfront for other water-dependent and water-related uses consistent with the unique needs of these uses for waterfront property, and support through such uses, maritime-dependent uses on Boston Harbor. The WS district also conditionally permits twenty-five percent of the gross floor area of any project to include residential and local business.

This provision ensures that while the majority of the site uses are water-dependent or water-related, they can gain support from other economic activities.

Waterfront Manufacturing Subdistricts

Harborpark Waterfront Manufacturing Subdistricts will be established to reinforce the City's commitment to preserving appropriate areas for clean, environmentally sensitive manufacturing uses. These subdistricts contain the important elements of the generic light manufacturing district, described in Article 36 of the Code, such as performance standards and screening and buffering requirements, but are specifically patterned to reflect the unique association and relationship of those areas to the water. Although the areas are not appropriate for either water-dependent industrial purposes or more intensive manufacturing or industrial uses, they lend themselves well to lighter types of water-related manufacturing uses that do not necessarily need direct water access or deep water berthing capabilities. Uses on these parcels will support water-related or water-dependent uses on parcels that need direct water access.

Affordable Housing

The Harborpark Zoning establishes minimum affordability requirements for any housing proposed on either publicly or privately held site. A minimum of twenty-five percent of all housing built on publicly-held land in Harborpark must be affordable as must ten percent of all housing built on privately-held land.

Development and Design Review

Article 31 Development and Design Review requirements will be applied to any project over 10,000 square feet or built on new fill. This will promote project design which has a sensitivity to the waterfront with respect to a building's orientation, height, massing, materials, open spaces and public amenities.

Since the Harborpark IP0D was adopted in 1987, over 200 meetings with the public have been held. The community process in the Dorchester Bay/Neponset River Waterfront has included meetings with the Columbia/Savin Hill Civic Association, the Dorchester Allied Neighborhood Association, the Cedar Grove Civic Association, the Pope's Hill Civic Association and the Dorchester Avenue Planning and Zoning Advisory Committee. The public participation process has additionally incorporated countless hours of staff time in separate meetings with various community leaders and waterfront residents and representatives. Staff believes that the proposed zoning for the Dorchester Bays/Neponset River Waterfront reflects this community input and

responds to neighborhood, business, and city concerns. The document before you today has benefited from this process.

The proposed zoning for the Dorchester Bay Beaches/Neponset River Waterfront incorporates extensive review by the Harborpark Advisory Committee, City agencies, the general public and the BRA and represents the evolution of the Harborpark zoning over five years. Input from and dedication of the HPAC and its constituent members has been invaluable. Today the BRA hears the presentation of the proposed zoning for the Dorchester Bay Beaches/Neponset River Waterfront. Because of the magnitude of the rezoning and the depth of public participation, the BRA allowed additional time for people to submit comments. Those comments have been reviewed and recommendations have been considered and incorporated. Staff believes that the proposed zoning for the Dorchester Bay/Neponset River Waterfront reflects this community input and responds to neighborhood, business, and city concerns.

NORTH END/DOWNTOWN WATERFRONT

On December 14, 1989, the BRA held a public hearing on the permanent zoning for the North End/Downtown Waterfront area of the Harborpark District. On February 8, 1990, the BRA approved the zoning with two amendments to the text. Since that time, staff has combined the text of the North End/Downtown Waterfront and the Dorchester Bay Beaches/Neponset River Waterfront into one Article 42. The text of Article 42 has been reformatted, also necessitating some technical changes, and some changes have been made in response to public comments. We recommend that the BRA ratify its February 8, 1990, approval of the proposed zoning for the North End/Downtown Waterfront as now incorporated in the proposed Article 42.

SOUTH BOSTON WATERFRONT

The existing South Boston Maritime Economy Reserve District has been incorporated into proposed Article 42 and a height limit of fifty-five (55) feet has been added. The Castle Island and Columbus Park Open Space Subdistricts also have been incorporated.

An appropriate vote follows:

VOTED: That the Boston Redevelopment Authority hereby authorizes the Director to petition the Zoning Commission to adopt text and map amendments for proposed final zoning for the Dorchester Bay/Neponset River Waterfront, North End/Downtown Waterfront and South Boston Maritime Economy Reserve District areas of

the Harborpark Interim Planning Overlay District, in substantial accord with the zoning text and map amendments submitted at its meeting of March 15, 1990; and further,

VOTED: that the Boston Redevelopment Authority hereby authorizes the Director to petition the Zoning Commission to adopt text amendments establishing the Waterfront Service District and Waterfront Manufacturing District, in substantial accord with the text amendments submitted at its meeting of March 15, 1990.

DRAFT

Doc # 5276
ADOPTED
3/15/90

Text Amendment Application No.
Boston Redevelopment Authority
Harborpark District: North End/
Downtown Waterfront and Dorchester
Bay/Neponset River Waterfront

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting, after Article 41, the following article:

ARTICLE 42A

**HARBORPARK DISTRICT
NORTH END/DOWNTOWN WATERFRONT AND DORCHESTER
BAY/NEPONSET RIVER WATERFRONT**

SECTION 42A-1. Statement of Purpose, Goals and Objectives. The purpose of this Article is to establish the zoning regulations for the comprehensive plan for the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District as required by the provisions of the Harborpark Interim Planning Overlay District, Article 27C of this Code. Together with Article 42B, this Article establishes the Harborpark District. The goals and objectives of this Article and the Harborpark District Plan are to protect the Harborpark District from inappropriate land and water uses; to promote balanced growth along Boston's shoreline; to allow the waterfront to be used as a public resource and thereby to extend its use and benefit to the greatest number of people; to preserve and protect public open space and beach area within the harbor area; to promote public access to the waterfront; to promote residential and mixed-use commercial activities compatible with adjacent areas; to promote the economic growth and development of water-dependent and water-related commercial activity; to protect the working waterfront and preserve areas for

water dependent uses; to promote public waterborne transportation; and to promote uses which integrate uses, activities, and physical connections between the harbor and its surrounding neighborhoods.

SECTION 42A-2. Recognition of the Harborpark District Plan. In accordance with Section 27C-16 of this Code, which requires production of comprehensive planning policies, development controls, and design guidelines for the Harborpark District, the Zoning Commission hereby recognizes the Harborpark District Plan as the general plan for the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront within the Harborpark District. The Harborpark District Plan shall also serve as the portion of the general plan for the City of Boston applicable to the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront within the Harborpark District. This Article is an integral part of and one of the means of implementing the Harborpark District Plan, the preparation of which is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 42A-3. Physical Boundaries. The provisions of this Article are applicable only in the the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront of the Harborpark District. The boundaries of the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront and their respective subdistricts are as shown on the maps entitled "Map 1E Harborpark District (supplemental to 'Map 1 Boston Proper')," "Map 4A Harborpark District (supplemental to 'Map 4 South Boston')," "Map 5A Harborpark District (supplemental to 'Map 5 North Dorchester')," and "Map 8B Harborpark

District (supplemental to 'Map 8 South Dorchester')" of the series of maps entitled "Zoning Districts-City of Boston," as amended, and as depicted in Appendix A to this Article.

SECTION 42A-4. Applicability. This Article together with the rest of this Code constitutes the zoning regulation for the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District and applies to the use or occupancy of any structure or land (including submerged land and Tidelands) and the erection, reconstruction, extension, or alteration of any structure or part thereof as specified in Section 4-1 regarding the conformity of structures and land to this Code. Exceptions to the provisions of this Article, pursuant to Article 6A, shall not be available except to the extent expressly provided in this Article or Article 6A. Application of the provisions of Article 27C to the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District is rescinded on the effective date of this Article, except as provided below. For the Downtown Waterfront Subdistrict, and the North End Waterfront Subdistrict, except where specifically otherwise indicated in this Article, the provisions of this Article supersede Article 8 (except Section 8-6), Article 13 (except Section 13-3) and Articles 14 through 24, inclusive, of this code. For the entire Harborpark District where conflicts exist between the provisions of this Article and the remainder of the Code, the provisions of this Article shall govern. The following Proposed Projects, however, are exempt from the provisions of this Article, and are governed by the rest of this Code, including Article 27C:

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article and for which no Zoning Relief is required.
2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

TIDELANDS REGULATIONS

SECTION 42A-5. Chapter 91 Requirements. In accordance with Chapter 91 of the General Laws of Massachusetts ("Chapter 91") and the regulations promulgated thereunder, certain Projects (as that term is defined below) located in Tidelands require a license ("Chapter 91 License") from the Commonwealth's Department of Environmental Protection ("DEP"). Section 18 of Chapter 91 requires that the planning board of a municipality in which a Project requiring a Chapter 91 license is located (i.e., the Boston Redevelopment Authority, in Boston) submit a written recommendation ("Section 18 Recommendation") stating whether the planning board believes the Project would serve a proper public purpose and would not be detrimental to the public's rights in Tidelands (the "Section 18 Standard"). Such a Section 18 Recommendation with respect to a Project requiring a Chapter 91 License and located in the Harborpark District shall be made by the Boston Redevelopment Authority in accordance with the provisions of Subsection 1 of this Section 42A-5. For the purposes of this Section 42A-5 only, the term "Project" shall mean a development, activity, or change of use requiring a Chapter 91 license. The zoning regulations applicable to the Harborpark District are intended to constitute part of the Municipal Harbor Plan for the Harborpark District. Other parts include the Harborpark District Plan, and other laws and planning documents identified in the Municipal Harbor Plan.

1. **Determination of Proper Public Purpose.** The Boston Redevelopment Authority, in making a Section 18 Recommendation regarding a Project located in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District, shall determine whether such Project serves a proper public purpose and would not be detrimental to the public's rights in Tidelands. The Boston Redevelopment Authority shall

base such determination on the conformity of the Project to the provisions of Subsections 2 through 11 of this Section, and on the extent to which the Project reasonably and appropriately preserves and enhances the public's rights in Tidelands including, without limitation, the public's:

- (a) visual access to the water, whether such Project is for a water-dependent or non-water-dependent use on Private or Commonwealth Tidelands;
- (b) rights to fishing, fowling, and navigation and the natural derivatives thereof, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Private or Commonwealth Tidelands;
- (c) physical access to and along the water's edge for recreation, commerce, and other lawful purposes, and interest in public recreational opportunities at the water's edge and open space for public use and enjoyment, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Commonwealth Tidelands;
- (d) interest in the preservation of the historic character of the Project's site;
- (e) interest in industrial and commercial waterborne transportation of goods and persons;
- (f) interest in repair and rehabilitation of dilapidated piers that blight the Harborpark District and limit public access; and

(g) interest in safe and convenient navigation in Boston Harbor, including without limitation:

(i) navigation by water transportation Vessels, such as ferries, water taxis, water shuttles, or commuter vessels, including, without limitation, appropriate and convenient navigation by such Vessels outside of the Main Shipping Channel and other established channels;

(ii) navigation by deep draft Vessels, including without limitation, appropriate navigation in the Main Shipping Channel and other established channels and the requirements of turning, anchorage, and approaches to deep water piers and berths;

(iii) navigation by Recreational Vessels and small Commercial Vessels outside of the Main Shipping Channel and other established channels as necessary or convenient for such vessels to avoid interference with water transportation Vessels and deep draft shipping and as otherwise required for the purposes of harbor traffic management; and

(iv) navigation, as appropriate to the site, by U.S. Coast Guard, U.S. Naval, police, fire, and other public safety Vessels.

2. **Public Access to the Waterfront and Open Space.** Public access to the waterfront and Open Space is a central policy of the Harborpark District

Plan. Pursuant to this policy, the Boston Redevelopment Authority shall not make a positive Section 18 Recommendation with respect to a Project that the Boston Redevelopment Authority determines will significantly interfere with public rights to walk or otherwise pass freely on Commonwealth Tidelands for purposes of commerce, recreation, and all other lawful activities; or on Private Tidelands for purposes of fishing, fowling, navigation, and the natural derivatives thereof. The Boston Redevelopment Authority shall find that the Section 18 Standard is not met if the Project does not comply with the following public access conditions:

- (a) To the extent that the Project site includes Flowed Private Tidelands, the Project shall allow continuous, on-foot, lateral passage by the public in the exercise of its rights therein, wherever feasible; any Pier, wharf, groin, jetty, or other structure on such Tidelands shall be designed to minimize interference with public passage, either by maintaining at least a five-foot clearance above the ground along the high water mark, by providing a stairway for the public to pass laterally over such structures or other means of lateral access substantially consistent with the foregoing; where obstruction of continuous access below the high water mark is unavoidable, the Project shall provide free lateral passage to the public above said mark in order to mitigate interference with the public's right to pass freely on Flowed Private Tidelands;
- (b) To the extent that the Project site includes Flowed or Filled Commonwealth Tidelands, or Filled Private Tidelands, the Project shall include reasonable measures to provide on-foot passage on such lands

for the public in the exercise of its rights therein, in accordance with the following provisions:

- (i) if the Project is not a Water-Dependent Use Project, said Project shall provide a public Pedestrian Access Network;
 - (ii) if the Project is a Water-Dependent Use Project, the Project shall provide for public passage by such means as are consistent with the need to avoid undue interference with the Water-Dependent Use or Uses in question and to avoid any safety hazard to people working on or visiting the Project site; measures which may be appropriate in this regard include, but are not limited to, allowing the public to pass laterally along portions of the Project shoreline, or transversely across the site to a point on the Project shoreline;
- (c) All Open Space areas established pursuant to Section 42A-6 located on Commonwealth Tidelands and all Public Access Facilities described in paragraphs (a) and (b) of this Subsection 2 shall be open and accessible to the public 24 hours a day. No gates, fences, or barriers may be placed on said Public Access Facilities or Open Space in a manner that would impede or discourage the free flow of pedestrian movement thereon. The foregoing shall not be deemed to prohibit the placing of temporary barriers as required in emergencies or in connection with construction, maintenance or the like, provided that interference with pedestrian access and passage is minimized to the extent reasonably practicable and consistent with public safety and that such barriers are in place no longer than necessary. All such pedestrian access facilities

shall be Accessible to Physically Handicapped Persons as those terms are defined in Section 30-2. Active pedestrian use of such Open Space areas and pedestrian access facilities shall be encouraged on a year-round basis, particularly for water-related activities, through such means as appropriate ground level uses of adjacent buildings and facilities and amenities designed to be attractive to pedestrians.

Maintaining, cleaning, landscaping, and managing such Open Space areas and pedestrian access facilities shall at all times be the responsibility of the Chapter 91 licensee of the Project. The Applicant for any Project subject to or electing to comply with the development review provisions of Section 42A-8 shall include in the urban design component of its Draft Project Impact Report, submitted pursuant to Section 31-5.3, an Open Space and Public Access Plan, including plans, drawings, specifications, descriptions of proposed uses, and descriptions of proposed management measures and access-related rules and regulations, if any, sufficient to permit the Boston Redevelopment Authority to determine the conformity of the Project to this Subsection 2 and Section 42A-6, and to make a Section 18 Recommendation.

- (d) Any Project required to provide public access facilities in accordance with paragraph (b), above, shall encourage public patronage of such facilities by placing and maintaining adequate signage at all entryways and at other appropriate locations on the site; said signage shall:
 - (i) conform to Article 11, Signs, of the code;

- (ii) conform, as applicable, to design guidelines for Harborwalk signage to be issued as regulations by the Boston Redevelopment Authority; and
 - (iii) include at least one sign, conforming to such design guidelines and placed in a prominent location, which advises the public of its access rights and discloses whatever access-related rules and regulations are in effect, if any.
- (f) Within any Maritime Economy Reserve Subdistrict public access shall be required as set forth above, but only to the extent to which it does not significantly interfere with or obstruct the operation of a maritime-dependent industrial use or pose a safety hazard to workers or visitors on the site of such use.
3. **Creation of Housing on Land not Owned by a Public Agency.** In a Project to construct ten (10) or more units of housing in the Harborpark District on a Lot not owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Section 31-5.1, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which Lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least ten percent (10%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority to the extent that such ten percent requirement is not met, the Applicant shall create or cause the creation of

Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.2, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective date of this Article, and multiplying that result by the ratio of the then Index to the Index in effect as of such effective date.

4. **Creation of Housing on Land Owned by a Public Agency.** In a Project to construct four (4) or more units of housing on a Lot that is owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Section 31-5.1, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which Lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least twenty-five percent (25%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority, to the extent such twenty-five percent requirement is not met, the Applicant shall create or cause the creation of Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by the Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.5, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective

date of this article, and multiplying that result by the ratio of the then Index to the Index in effect as of the effective date of this article.

Anything to the contrary herein contained notwithstanding, the provisions of this Subsection 4 and of Subsection 5 of this Section 42A-5 shall apply to any Proposed Project located in the Charlestown Navy Yard Subdistrict.

5. **Construction of Affordable Housing Off-Site.** The following provisions shall govern the construction of Affordable dwelling units off-site in satisfaction of the requirements of Subsections 3 and/or 4 of this Section:
 - (a) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off-site in the North End Housing Priority Overlay Area or North End neighborhood. In determining whether to approve the construction of Affordable dwelling units off-site, the Boston Redevelopment Authority shall take into account the number of Affordable dwelling units which have been created in the North End Housing Priority Area or the North End neighborhood since the effective date of this Article. The Boston Redevelopment Authority shall base its approval on the standard that a minimum of twenty-five percent (25%) of the total number of housing units to be constructed after the effective date of this Article within the North End Housing Priority Overlay Area are to be Affordable.
 - (b) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the North End/Downtown Waterfront or

Dorchester Bay/Neponset River Waterfront, other than in the North End Waterfront Subdistrict or the Downtown Waterfront Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off-site in the vicinity of the Project either within the Harborpark District or within the adjacent neighborhood.

6. **Provision for Water Transportation Facilities.** To promote an effective water transportation system and to ensure use of the waterfront and full access to recreational, commuting, and economic activities, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met with respect to a Project located in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict, unless the Project conforms to the requirements for water transportation facilities set forth below, as applicable:
 - (a) **Water Transportation Facility Requirement.** In making a Section 18 Recommendation with respect to such a Project, the Boston Redevelopment Authority shall consider the extent to which provision is made on the Project site for waterborne passenger transportation facilities, including, without limitation, terminals and landings for water ferries, water shuttles, or water taxis, and free public landings, and in the Downtown Waterfront Subdistrict, such facilities shall also include main terminals and passenger facilities for commuter boats, cruise boats, and ferries as appropriate to the scale, use, and location of the Project and in accordance with the water transportation guidelines of the Harborpark District Plan.

(b) **Shoreline Construction.** In order to provide appropriate docking areas for emergencies and other harbor activities, all portions of the shoreline of a Project consisting of seawalls or bulkheads, but not including Piers, which are restructured and which abut waters accessible by Vessels shall be constructed, to the extent reasonably practicable, in such a manner as can accommodate such Vessels alongside for dockage.

7. **Provision for Cultural Uses in the Downtown Waterfront Subdistrict.** With respect to a Project located in the Downtown Waterfront Subdistrict involving the construction, alteration requiring a building permit, or change of use of ten thousand (10,000) square feet or more of gross floor area on the first story of a building, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless either (i) not less than twenty-five percent (25%) of the gross floor area of that portion of the first story of such building affected by such construction, alteration, or change of use is reserved, designed, and finished for one or more Cultural Uses otherwise allowed for such Proposed Project or conditional for such Proposed Project and permitted pursuant to Article 6, or (ii) a commensurate level of public attraction is attained through the provision of one or more such Cultural Uses elsewhere on the Lot, as approved by the Boston Redevelopment Authority. Such Cultural Uses shall be located and designed with particular emphasis on providing public attraction to the water's edge. The use of the gross floor area thus reserved, designed, and finished shall be limited to Cultural Uses and shall not be included in the calculation of FAR for the Project.

8. **Uses Allowed in Tidelands Proposed to be Filled and on Floating Structures.**

No portion of a Project located on Tidelands which are filled after the date of the first notice of hearing before the Zoning Commission on this Article, shall be erected, used, or arranged or designed to be used except for a Water-Dependent Use otherwise allowed or conditionally permitted, subject to the provisions of Article 6. In making a Section 18 Recommendation with respect to a Project involving such new fill, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless such new fill is limited to the extent reasonably practicable by measures such as substituting pile-supported or floating structures for new fill or relocating the use to a position above the High Tide Line. The foregoing shall not, however, prohibit or limit the use of new fill the purpose of which is to eliminate irregularities in or repair previously altered portions of the shoreline included in the Project, provided that such new fill replaces previously authorized fill elsewhere along such shoreline on a one-to-one square foot basis (new fill to removed fill). The foregoing shall also not prohibit or limit the use of new fill the purpose of which is to accommodate mechanical elements of the Project that enter the seabed, such as, without limitation, elevator shafts, ventilation shafts, utility conduits, or the like, and any associated structural elements, provided that such fill is limited to that reasonably required under the circumstances and provided, further, that all such mechanical elements, structural elements, and fill are wholly contained within the edges of a Pier. Piles are not considered "fill" for the purposes of this Article. New fill, in any event, is prohibited in any area where Pier construction or extension is prohibited by this Code.

No floating structure, other than a Vessel, shall be used or arranged or designed to be used except for a Water-Dependent Use otherwise allowed for the location of such structure or conditionally permitted, subject to the provisions of Article 6.

9. Regulations Governing Piers and Other Structures in the North End

Waterfront Subdistrict. The following provisions apply in the North End Waterfront Subdistrict:

- (a) No portion of any building may extend beyond the 1880 Harbor Line;
- (b) No Pier may be constructed and no Existing Pier may be extended, reconfigured, or reconstructed except in accordance with the following:
 - (i) The End of an Existing Pier may be extended, reconfigured, or reconstructed but not so as to cause any portion to extend more than twelve (12) feet beyond the 1880 Harbor Line. Any extension of an Existing Pier beyond the 1880 Harbor Line shall be used exclusively as publicly accessible Open Space or as part of a Pedestrian Access Network. In no event shall any such extension beyond the 1880 Harbor Line be located seaward of that area declared to be non-navigable by the United States Congress in P.L. 90-312, and shown in magenta on that certain chart issued by the National Oceanic and Atmospheric Administration as chart number 13272, entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.

- (ii) The Sides of an Existing Pier may be extended or reconfigured, but not so as to increase the width of the Existing Pier at any point by more than twenty-four (24) feet, which increased width shall be used exclusively to provide Public Access Facilities or publicly accessible Open Space in accordance with Subsection 2 of this Section 42A-5.
 - (c) No portion of any new Pier, Existing Pier, or structure located thereon or use thereof may significantly obstruct or interfere with the operations of any existing U.S. Coast Guard facilities in the North End Waterfront Subdistrict.
 - (d) The foregoing provisions of this Subsection 9 shall not limit the applicability to a Project of the provisions of Subsection 1 of this Section 42A-5, including without limitation subparagraph (g) thereof regarding non-interference with navigation.
10. **Regulations Governing Piers and Other Structures in the Downtown Waterfront Subdistrict.** The following provisions apply in the Downtown Waterfront Subdistrict:
- (a) No portion of any building may extend beyond the 1880 Harbor Line, except that a building not exceeding fifteen (15) feet in height, not exceeding a gross floor area of 400 square feet, and used exclusively in connection with a waterborne passenger transportation facility (such as, by way of illustration only, a ticket office or passenger waiting area)

is permitted beyond the 1880 Harbor Line as a conditional use only, subject to the provisions of Article 6;

- (b) No Pier may be constructed and no Existing Pier may be extended, reconstructed, or reconfigured except in accordance with the following:
 - (i) The End of an Existing Pier may be extended, reconstructed, or reconfigured, but not so as to cause any portion to extend more than fifty (50) feet beyond the 1880 Harbor Line. Any such extension beyond the 1880 Harbor Line shall be used exclusively as publicly accessible Open Space and/or Water Dependent Facilities of Public Accommodation, otherwise allowed or conditionally permitted, subject to the requirements of Article 6, for the location, pursuant to this Article. In no event shall any such extension beyond the 1880 Harbor Line be located outside of that area declared to be non-navigable by the United States Congress, in P.L. 90-312, and shown in magenta on that certain chart issued by the National Oceanic and Atmospheric Administration as chart number 13272, entitled "Boston Inner Harbor", 39th Edition, dated November 24, 1984; and
 - (ii) The Sides of an Existing Pier may be extended, reconstructed, or reconfigured, but not so as to prevent the safe and convenient navigation and docking by Vessels that appropriately and reasonably use the water area between Piers affected by such extension or reconfiguration, as determined by the Boston Redevelopment Authority consistent with Harborpark District Plan.

For any Project subject to or electing to comply with the development review requirements set forth in Section 42A-8, the Applicant shall submit such plans, drawings, specifications, and studies as are necessary to permit the Boston Redevelopment Authority to determine that the foregoing requirement is met. If the End of an Existing Pier is extended beyond the 1880 Harbor Line, as permitted in clause (i) above, then the use of any extension of the north Side of an Existing Pier shall be limited to publicly accessible Open Space, and/or such Water Dependent Facilities of Public Accommodation, as are otherwise allowed or conditionally allowed, subject to the requirements of Article 6, for the location pursuant to this Article.

- (c) The foregoing provisions of this Subsection 10 shall not limit the applicability to a Project of the provisions of Subsection 1 of this Section 42A-5 including without limitation subparagraph (g) thereof regarding non-interference with navigation.

11. **Regulations Governing Piers and Other Structures Elsewhere in the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront.** Within the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront, except in the Downtown Waterfront Subdistrict, and the North End Waterfront Subdistrict, no portion of any Pier, other than an Existing Pier, shall be erected, used, or arranged or designed to be used except as publicly accessible Open Space or for a

OTHER HARBORPARK REGULATIONS OF GENERAL APPLICATION

SECTION 42A-6. Open Space Requirements. Any Proposed Project in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict involving new construction at grade, except a Proposed Project with a gross floor area of 2,500 square feet or less used exclusively for one or more Water Dependent Uses, shall devote to Open Space at least fifty percent (50%) of the Lot Area of such Proposed Project.

For the purposes of this Article, the term "Open Space" shall mean land areas and areas on Piers excluding (a) any area occupied by a building or roofed structure; (b) any parking lot or parking area; (c) any street; (d) any private road or area devoted to motor vehicle use; (e) any salt-water area below the mean high tide line, other than areas on Piers; (f) any fresh water area more than ten (10) feet from the shoreline; (g) marina slips or floats or other floating structures; (h) swimming pools; and (i) tennis courts.

The foregoing notwithstanding, the following areas shall be deemed "Open Space":

- (w) any area occupied by a building not exceeding a Building Height of fifteen (15) feet and a gross floor area of 400 square feet and reserved exclusively for use as a Water Dependent Use or a recreational use permitted as a conditional use pursuant to Subsection 42A-18.7(b);
- (x) any area occupied by a street or private way open only to pedestrians and emergency vehicles;
- (y) any area at grade, pedestrian-accessible to members of the public 24-hours per day, covered by a weather-protective enclosure or roof

structure, but not by any portion of a building which portion is used or designed to be used for human occupancy or contains or supports mechanical equipment principally serving portions of the building other than the enclosed Open Space area, provided that an exception allowing the designation of such area as Open Space is granted by the Board of Appeal, subject to the requirements of Article 6A;

- (z) any area beneath an archway, which archway is not less than forty (40) feet wide at grade and forty (40) feet high at its apex and open at both ends.

All Open Space areas shall be Accessible to Physically Handicapped Persons, as those terms are defined in Section 30-2. The foregoing shall not prohibit occasional access to or over Open Space by service vehicles reasonably required to construct or maintain the structures on the Lot or by emergency vehicles. However, routine access to or over Open Space areas by vehicles transporting, loading, or unloading passengers or supplies for the normal operation of buildings and uses is not consistent with the foregoing definition. An area otherwise qualifying as Open Space, but occupied by Cultural Uses in satisfaction of the requirements of Section 42A-5.7, shall not be included in the calculation of Open Space for a Proposed Project; provided that the Board of Appeal may grant an exception, subject to the provisions of Article 6A, allowing such area to be counted in satisfaction of the requirements of both this Subsection and Subsection 42A-5.7 if the proposed use and design of such area is consistent with the goals of promoting active public use of Open Space areas and of promoting cultural

activities on the waterfront, as certified to the Board of Appeal by the Boston Redevelopment Authority.

SECTION 42A-7. Waterfront Yard Area Requirements. Except as otherwise expressly provided in this Article, each Lot in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront adjacent to or including the High Tide Line shall include a Waterfront Yard Area adjacent to and landward of such High Tide Line, excluding portions of the High Tide Line occupied by Piers. A Waterfront Yard Area shall also be required along the edges of any Pier. The required Waterfront Yard Area landward of the High Tide Line and the required Waterfront Yard Area on Piers shall be connected so as to provide a continuous path along the waterfront, with a minimum width at the places of connection of no less than twelve (12) feet.

The dimensions of the required Waterfront Yard Area are set forth in Table A of this Article.

TABLE A

Required Depth of Waterfront Yard Area

<u>Location</u>	<u>Required Setback (Shoreline, excluding Piers)</u>	<u>Required Setback (Sides of Piers)</u>	<u>Required Setback (Ends of Piers)</u>
1. Downtown Waterfront Subdistrict	35'	12'	50'
2. North End Waterfront Subdistrict and Dorchester Bay/Neponset River Waterfront	35'	12'	35'

The provisions of Article 6A, Other Exceptions, shall be applicable to the Waterfront Yard Area requirement. The following additional provisions shall apply to the Waterfront Yard Area requirement:

1. **Waterfront Yard Area Measurements.** The depth of the Waterfront Yard Area shall be measured perpendicularly from the High Tide Line in the case of bulkheads, rip rap, fill, or shoreline and from the Ends and Sides of Piers. In locating the Waterfront Yard Area, the actual High Tide Line may be smoothed with such curves and chords as may be accessory to achieve a reasonably regular landward boundary. However, in no instance shall the Waterfront Yard Area be narrower than the required dimension measured from the actual High Tide Line. For the limited purpose of applying the Waterfront Yard Area requirements of this Article, a filled area or a structure consisting of both fill and Pier, projecting seaward of the prevailing shoreline, and having the form of a wharf or Pier, shall be treated as Pier.
2. **Setback Requirements.** No portion of any building or structure (including, without limitation, mechanical facilities associated with a building) shall be located in any Waterfront Yard Area, except walkways, landscape furniture, guardrails, cleats, bollards, pilings, boat ramps, and other structures (a) which do not materially interfere with pedestrian use of the Waterfront Yard Area or (b) which are required for operational or safety reasons to be located at the water's edge, provided that any resulting interference with pedestrian use of the Waterfront Yard Area is minimized to the extent economically practicable.
3. **Exception to Waterfront Yard Area Setback Requirement.** Any building or structure used for a Water Dependent Use, including without limitation, drydocks, enclosed or covered wet dock sheds, davits, hoists, mast markers,

and the structures listed in Subsection 2 above, shall be permitted within the Waterfront Yard Area as necessary to avoid interference with any direct access to the water required for such Water Dependent Use.

4. No portion of any Waterfront Yard Area shall be located on any floating structure.

SECTION 42A-8. Development Review. Notwithstanding any contrary provisions of Section 31-3 and Section 31-4, any Proposed Project within the Harborpark District,

- (a) to erect a building or structure having a gross floor area of ten thousand (10,000) or more square feet;
- (b) to enlarge or erect a building or a structure so as to increase its gross floor area by ten thousand (10,000) square feet or more;
- (c) to establish or change the uses of fifty thousand (50,000) square feet or more of gross floor area; or
- (d) involving the construction, demolition, or alteration of any Pier or the alteration of any shoreline, which construction, demolition, or alteration affects one thousand (1,000) square feet or more of Lot Area

shall be subject to the provisions of Article 31 of this Code, Development Review Requirements, provided that a Proposed Project for an allowed maritime-dependent industrial use located within a Maritime Economy Reserve Subdistrict and subject

to review by the Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts under the Massachusetts Environmental Protection Act and its implementing regulations shall not be subject to the requirements of Article 31.

1. **Scope of Review.** The scope of review of a Proposed Project in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the provisions of Article 31 shall be as set forth in Section 31-5, modified as set forth below:
 - (a) Only Proposed Projects with a gross floor area of fifty thousand (50,000) or more square feet shall be subject to the Transportation Component provisions of Section 31-6.
 - (b) Notwithstanding any contrary provision of Sections 31-5 through 31-10, review and analysis of a Proposed Project pursuant hereto shall include review and analysis of those additional matters identified in Subsections 2 through 6 of this Section 42A-8 and appropriate design and mitigation measures may be required by the Boston Redevelopment Authority in connection therewith.
2. **Urban Design Guidelines.** Review and analysis of a Proposed Project pursuant to Section 31-8, Urban Design Component, shall include review and analysis of such Proposed Project in accordance with the urban design guidelines set forth in this Subsection 2. The issuance of an Adequacy Determination by the Boston Redevelopment Authority approving the Applicant's Final Project Impact Report pursuant to Subsection 31-5.6 shall constitute the Boston Redevelopment Authority's determination of compliance

with this Subsection 2, subject to any conditions as may expressly be set forth in said Adequacy Determination.

- (a) New development and rehabilitation shall reinforce the traditional pattern, height, and massing of the urban waterfront.
- (b) Buildings and spaces shall direct views and pedestrian movements towards the water.
- (c) Buildings on Piers shall be sited so as to reinforce the geometry of the Pier; and buildings near the water's edge shall not be massed so as to create a continuous wall along the water's edge.
- (d) Inland buildings shall reinforce the city street pattern and avoid continuous walls parallel to the water's edge by maintaining view and access corridors, especially at cross-streets.
- (e) Buildings shall be sited to provide view and access corridors towards the open water and to preserve views from Public Access Facilities and Open Space areas at the Ends of Piers. Open archways spanning a view corridor, which archways are not less than forty (40) feet wide at grade and forty (40) feet high at the apex and are oriented and designed to preserve the view corridor, as determined through design review, shall not be deemed inconsistent with this design guideline.
- (f) Building elements on a site shall step down in height towards the water's edge.

- (g) Open areas and buildings at or near the Ends of Piers shall offer opportunities for public views of the water and public amenities that attract the public to the water's edge.
- (h) Building massing shall enhance the air flow channels created by sea breezes that are beneficial to air quality in the City.
- (i) Open spaces, building entrances, shopfronts, shop windows, shop entrances, terraces, gardens, arcades, and similar elements shall be designed to enhance pedestrian activity, access to, and enjoyment of the waterfront. Blank walls, without windows or entrances facing onto pedestrian areas, shall be avoided to the extent practicable in building designs.
- (j) Facade treatment, building materials, and design details shall complement the traditional character of Boston's historic waterfront development patterns.
- (k) Setbacks, corner treatments, and other design details shall be used to minimize the sense of bulk of structures and ornament and decorative elements appropriate to the urban and historical waterfront context are encouraged.

(l) Roofs of buildings shall be designed to minimize the visibility of roof structures and penthouses normally built above the roof and not designed to be used for human occupancy.

(m) In addition to the foregoing, design features of a Proposed Project shall take into consideration the characteristics of the site and its location in the Harborpark District and provide opportunities for special amenities, such as panoramic views of the Harbor, and shall enhance and reinforce any historic qualities of existing structures. New development shall be consistent with design guidelines established in the Harborpark District Plan.

3. **Enhancement of Pedestrian Environment.** Review and analysis of a Proposed Project, pursuant to Section 31-8, Urban Design Component, shall also include review and analysis of the extent to which the Proposed Project promotes and enhances the quality of the pedestrian environment, by means such as: (a) pedestrian pathways connecting to the waterfront and, where appropriate, linking the waterfront and mass transit stations; (b) spaces accommodating pedestrian activities and public art; (c) use of materials, landscaping, public art, lighting, and furniture that enhance the pedestrian and waterfront environment; (d) pedestrian systems that encourage more trips on foot to replace vehicular trips; (e) other attributes that improve the pedestrian environment and pedestrian access to the waterfront and Boston Harbor; and (f) appropriate management and maintenance of pedestrian access within the Proposed Project.

4. **Tidelands Component.** The Boston Redevelopment Authority shall require in its Scoping Determination issued pursuant to Section 31-5 with respect to any Proposed Project located in the Harborpark District and requiring a Chapter 91 License or any Proposed Project located in the Charlestown Navy Yard Subdistrict, an additional development review component to be known as the "Tidelands Component." The Boston Redevelopment Authority shall require the Applicant to include in the Draft Project Impact Report, submitted for the Proposed Project pursuant to Section 31-5.3, an analysis of the Proposed Project together with such plans, drawings and specifications as are necessary for the Boston Redevelopment Authority to determine that the Proposed Project complies with the standards and requirements set forth in Subsections 1 through 11 of Section 42A-5.

SECTION 42A-9. Environmental Protection and Safety Standards for Proposed Projects. Any Proposed Project involving new construction in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District shall conform to the environmental protection and safety standards established in this Section, to the extent economically practicable, as determined in development review pursuant to Section 42A-8.

1. **Trash Disposal Standards.** Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include a trash compactor in an interior location for garbage and trash disposal, and shall provide for the maintenance and cleanliness of such compactor.
2. **Area for Recyclable Materials.** Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include an interior

area for the separation, temporary storage, and collection of recyclable materials. Such area shall be located in the vicinity of any off-street loading facility.

3. **Provision of Safety Ladders.** Any such Proposed Project, if adjacent to the water, shall provide a safety ladder or ladders extending from the water to an accessible area above the high water mark such that there shall be one safety ladder located approximately every one hundred (100) feet along those portions of the waterfront occupied by seawalls, piers, wharves, or other structures otherwise inaccessible to a person in the water. The foregoing notwithstanding, a safety ladder shall not be required in a location that would unreasonably interfere with docking facilities or other Water Dependent Use, provided that safety ladders are placed at intervals most closely approximating one hundred (100) feet and not so interfering.

SECTION 42A-10. Off-Street Parking. The provisions of Article 23, Off-Street Parking, shall govern any Proposed Project in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District. The off-street parking requirements stated as applicable to a specific floor area ratio set forth in Table B of Section 13-1 shall also apply to the same floor area ratio set forth in this Article. Where a use provided for in this Article is not included in any use item number listed in Article 23, off-street parking facilities shall be provided in accordance with the requirements for the use item number listed in Article 23 which is most similar to such use.

1. Notwithstanding any contrary provision of Article 23, the following supplementary regulations shall be applicable in the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront:

- (a) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for single family dwellings, two-family dwellings, and multi-family dwellings at a rate of not less than 1.0 space per dwelling unit.
- (b) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for a Recreational Marina at a rate of not less than one (1) off-street parking space for every eight (8) docking spaces.
- (c) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for slips and docking spaces for Commercial Vessels as follows:
 - (i) For each slip or docking space for a Commercial Vessel which neither takes on nor discharges passengers at such slip or docking space, other than crew members, two (2) off-street parking spaces shall be provided.
 - (ii) For each slip or docking space for a Commercial Vessel which takes on or discharges passengers for sightseeing, exhibits, special events, dining, dancing, or other public assembly activity, off-street parking spaces shall be provided in accordance with Section 23-2.

- (d) All off-street parking areas shall be located, designed, and maintained in accordance with Sections 23-8, 23-9, and 23-10. Subject to the provisions of Article 6, the Board of Appeal may approve a decrease up to fifty percent (50%) of the number of off-street parking spaces required by this section, provided that: (a) the Applicant reserves a site area sufficient to accommodate the unsatisfied requirement for the possible future expansion or peak seasonal usage of said off-street parking spaces; (b) any permit granted pursuant to this subsection shall be for a period not to exceed five (5) years, and shall be renewable in accordance with the provisions of Article 6; and (c) the Applicant provides for said area an environmentally suitable, permanent ground cover of pervious material. Such area shall not be used or built upon and shall be maintained as open space. However, such area may be developed for parking use in the future in accordance with the provisions of this section.
- (e) For any Proposed Project subject to the development review requirements set forth in Section 42A-8 and for which a Transportation Access Plan is required, the Boston Redevelopment Authority may determine that so-called "shared parking" arrangements, in which parking spaces may be counted for different uses whose peak parking use periods are not coincident, will adequately meet parking demand associated with such Proposed Project, in which event the number of parking spaces otherwise required shall be correspondingly reduced.

- (f) No Proposed Project shall be required to provide parking in excess of that permitted under any applicable state or federal parking freeze or similar law.
- (g) No parking shall be permitted in any Public Access Facility provided pursuant to the provisions of Section 42A-5.2.

SECTION 42A-11. Off-Street Loading. Within the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront, no off-street loading facilities shall be required for any Proposed Project with a gross floor area of less than 10,000 square feet. For any Proposed Project with a gross floor area of 10,000 square feet or more, the Applicant shall include in its Project Impact Report, prepared in accordance with Section 31-5, an analysis of the loading requirements of the Proposed Project, and of the impacts (as described in Sections 31-6 through 31-9) of projected loading activities, together with a description of any off-street loading facilities required to meet those requirements and to mitigate, to the extent economically practicable, projected impacts, and the Boston Redevelopment Authority shall determine the adequacy of such proposed loading facilities in accordance with the provisions of Article 31.

REGULATIONS APPLICABLE IN THE NORTH END/DOWNTOWN WATERFRONT

SECTION 42A-12. Downtown Waterfront Subdistrict. This Section establishes the Downtown Waterfront Subdistrict, as depicted on Map 1E Harborpark District (supplemental to Map 1 Boston Proper). The Downtown Waterfront Subdistrict contains the Downtown Water Transportation Overlay area, as depicted on said Map 1E, which overlay area is governed by the provisions of this Article and Code applicable generally to said Subdistrict and by the special provisions set forth in Section 42A-5.6(a). Within the Downtown Waterfront Subdistrict, the maximum allowed FAR is four (4) and the maximum allowed Building Heights are as follows:

- (a) Within Height Zone A, as shown on Map 1E and Appendix A hereto, only Open Space is allowed;
- (b) Within Height Zone B, as shown on said Map 1E and Appendix A hereto, the maximum allowed Building Height is fifty-five (55) feet.
- (c) Within Height Zone C, as shown on said Map 1E and Appendix A hereto, the maximum allowed Building Height is one hundred ten (110) feet;
- (d) Within Height Zone D, as shown on said Map 1E and Appendix A hereto, the maximum allowed Building Height is one hundred twenty-five (125) feet; and
- (e) Within Height Zone E, as shown on said Map 1E and Appendix hereto, the maximum allowed Building Height is one hundred fifty-five (155) feet.

For the limited purposes of computing required Open Space, pursuant to Section 42A-6, and FAR, pursuant to this Section 42A-9, for a Proposed Project in the Downtown Waterfront Subdistrict, an existing building, not located on a Pier, together with the land occupied by such existing building may be excluded from such Proposed Project, provided that there is also excluded such additional land, if any, as was required for such excluded existing building to comply with any applicable zoning requirements in effect as of the issuance of the original building permit for such existing building, as affected by any zoning relief obtained for such existing building. Notwithstanding the foregoing, however, (i) the area of the land occupied by any additional building footprint created by an addition to or extension of such existing building shall be included in such Proposed Project for purposes of computing required Open Space, and (ii) the gross floor area of any addition to or extension of such existing building shall be included in the gross floor area of the Proposed Project for purposes of calculating the FAR of the Proposed Project. For the purposes of this Section, an "existing building" shall mean a building in existence as of the date of issuance of the first building permit for the Proposed Project.

SECTION 42A-13. North End Waterfront Subdistrict. This Section establishes the North End Waterfront Subdistrict, as depicted on Map 1E Harborpark District (supplemental to Map 1 Boston Proper). Within the North End Waterfront Subdistrict, the maximum allowed FAR is two (2) and the maximum allowed Building Height is fifty-five (55) feet. The North End Waterfront Subdistrict includes the North End Housing Priority Overlay Area, as depicted on said Map 1E, which Overlay Area is governed by the requirements of this Article

and Code applicable generally to said Subdistrict and by the special requirements of Subsection 42A-5.5.

Within the North End Waterfront Subdistrict, in order to achieve the maximum public benefit and use of the Waterfront Yard Area and the most desirable urban design plan and/or as may be required to permit compliance with Subsection 42A-5.9, the Applicant may propose to the Boston Redevelopment Authority a reconfiguration of the Waterfront Yard Area for a Proposed Project, provided that the Proposed Project is subject to or the Applicant has elected to comply with the development review provisions of Section 42A-10 and provided that the net area of the required Waterfront Yard Area is not reduced and the minimum depth of the Waterfront Yard Area from the High Tide Line, or the Sides or Ends of Piers, as the case may be, is twelve (12) feet at all locations. The Applicant shall include in its development review submissions an analysis, and such plans, drawings, and specifications as are necessary for the Boston Redevelopment Authority to determine that such configuration conforms to the requirements of this Section, and with the Harborpark District Plan. If the Boston Redevelopment Authority so determines, the required Waterfront Yard Area requirements applicable to such Proposed Project shall be based on such reconfiguration.

SECTION 42A-14. North End Local Business Subdistrict. This Section establishes the North End Local Business Subdistrict as depicted on Map 1E Harborpark District (supplemental to Map 1 Boston Proper) and Appendix A hereto. The North End Local Business Subdistrict is established in order to provide for appropriate and compatible zoning on this privately held site adjacent to an open space subdistrict. The maximum allowed FAR is two (2) and the

maximum allowed Building Height is fifty-five (55) feet and the regulations of this Code for an L-2-55 Subdistrict are applicable.

SECTION 42A-15. Open Space Subdistricts. This Section establishes the two open space subdistricts within the North End/Downtown Waterfront, which subdistricts are identified in Table B and shown on Map 1E Harborpark District (supplemental to Map 1 Boston Proper) of the Code and on Appendix A hereto. Any Lot within any such open space subdistrict is subject to Article 33, Open Space Subdistricts, and other provisions of this Code applicable to such subdistrict.

TABLE B

Open Space Subdistricts in the North End/Downtown Waterfront

<u>Location</u>	<u>Subdistrict Designation</u>
Waterfront Park North End Playground	Parkland* Recreation**

* Parkland open space subdistricts consist of land appropriate for and limited to passive recreational uses. See Section 33-9.

** Recreation open space subdistricts consist of land appropriate for and limited to active or passive recreational uses. See Section 33-10.

SECTION 42A-16. Prohibition of Planned Development Areas and Restriction of Urban Renewal Areas in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, no planned development area as that item is used in Section 3-1A.a shall be permitted. However, within said subdistricts, parcels may be combined to form a single Lot notwithstanding that said parcels are separated by a street. On the Sargents Wharf Site and the Pilot House

Extension Site, as those sites are described in Map 1E Harborpark District (supplemental to Map 1 Boston Proper) of the code and Appendix A hereto, no urban renewal area shall be permitted, except in accordance with the requirements of Subsection 3-1A.b and the additional requirements of this Section 42A-10.

1. **Sargents Wharf Site.** A Proposed Project on the Sargents Wharf Site may be established as an urban renewal area if: (a) such Proposed Project is used exclusively for Residential Uses and uses accessory thereto, except for any area on the first story or second story devoted to Facilities of Public Accommodation and uses accessory thereto and office uses and uses accessory thereto; (b) not less than one hundred (100) of the dwelling units located on-site are Affordable; and (c) such Proposed Project is in substantial accord with the guidelines published by the Boston Redevelopment Authority in its request for proposals for the Sargents Wharf Site dated March 23, 1989. An urban renewal area may be established in order to accomplish the planning objectives of achieving an appropriate density and site plan for the publicly-held Sargents Wharf Site. The Board of Appeal may grant an exception for FAR on this site pursuant to the provisions of Article 6A, but not exceeding a total FAR of three (3). The urban renewal area may provide for a maximum permitted Building Height of seventy-five (75) feet for any Proposed Project complying with the affordability requirement of clause (b) above; otherwise the maximum permitted Building Height shall be fifty-five (55) feet.
2. **Pilot House Extension Site.** A Proposed Project on the Pilot House Extension Site may be established as an urban renewal area if such Proposed Project provides for a structure adjacent to and landward of the historically

significant Pilot House building and replaces the former Pilot House Extension building in a manner consistent with the height and massing of the Pilot House and in substantial accord with the guidelines published by the Boston Redevelopment Authority in its request for proposals for the Pilot House Extension, dated March 23, 1989. The Board of Appeal may grant an exception for FAR on this site pursuant to the provisions of Article 6A, provided that the increase in FAR is no greater than that necessary to achieve the foregoing stated objectives.

SECTION 42A-17. Rooftop Additions. No roof structure designed or used for human occupancy, access, or storage, and no roof structure, headhouse, or mechanical equipment normally built above the roof and not designed or used for human occupancy, shall be erected or enlarged on the roof of

- (a) an existing building within the Downtown Waterfront Subdistrict classified as a Category One, Category Two, Category Three, or Category Four structure in the Boston Landmarks Commission survey of buildings in Boston, or
- (b) any existing building in the North End Waterfront Subdistrict,

unless after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 the Board of Appeal grants permission therefor. In reaching its decision, said Board shall consider whether such roof structure is architecturally consistent with the distinctive historical and architectural character of the area. The Inspectional Services Department shall transmit a copy of the appeal for the conditional use to the Boston Landmarks Commission. The Boston Landmarks

Commission may, within thirty days after the date of such transmittal, file with the Board of Appeal a recommendation, provided that if no such recommendation is received within said thirty days, the Board of Appeal may render its decision without such recommendation.

SECTION 42A-18. Use Regulations Applicable in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. No land (including Tidelands and submerged land) water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, within the North End Waterfront Subdistrict or the Downtown Waterfront Subdistrict, except in conformity with the provisions of this Section and Section 8-6.

1. **Inclusion of Daycare Facilities.** The provisions of this Subsection 1 apply only to Proposed Projects in the North End Waterfront Subdistrict or Downtown Waterfront Subdistrict that exceed a Building Height of fifty-five (55) feet, or an FAR of two (2), or both. Any such Proposed Project having a gross floor area, not including floor area devoted to Residential Uses, Hotel Uses, or Cultural Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to at least the amount listed below in Table C of this Section. An Applicant for a Proposed Project subject to the provisions of this Subsection 1 may fulfill its obligations under this paragraph by either (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created, in the vicinity of the Proposed Project within the North End Waterfront Subdistrict, the North End neighborhood, the Downtown Waterfront Subdistrict, or a downtown district identified under Section 3-1C; provided that any Proposed Project subject to the provisions

of this Subsection 1 shall devote to day care facilities located on-site an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this Subsection 1 shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours. Such day care facilities provided as part of a Proposed Project shall not be included in the calculation of FAR for the Proposed Project.

TABLE C

Provision of Day Care Facilities

<u>Size of Proposed Project* (Gross Floor Area)</u>	<u>Minimum Day Care Facilities (Gross Floor Area)</u>
100,000 up to 200,000 sq.ft.	2% of gross floor area
200,000 up to 500,000 sq.ft.	4,000 sq.ft.
500,000 up to 1,000,000 sq.ft.	8,000 sq.ft.
More than 1,000,000 sq.ft.	12,000 sq.ft.

* Excluding floor area devoted to Residential, Hotel, or Cultural Uses.

2. **Facilities of Public Accommodation.** Within any Proposed Project in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict with a gross floor area of 10,000 square feet or greater, involving new construction or a change of use on the first story, the use of at least forty percent (40%) of the gross floor area of the first story of such Proposed Project shall be for indoor Facilities of Public Accommodation, otherwise

allowed for such Proposed Project or conditional and permitted pursuant to Article 6.

3. Residential Use Restrictions on Piers in the Downtown Waterfront

Subdistrict. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the Downtown Waterfront Subdistrict, residential uses are forbidden uses on the first story of any portion of a Proposed Project located on a Pier.

4. North End Housing Priority Overlay Area. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the North End Housing Priority Area, for any Proposed Project, a minimum of two (2) square feet of gross floor area shall be devoted to allowed residential uses for each square foot of gross floor area not devoted to such residential uses. An Applicant for any Proposed Project subject to the provisions of this Subsection 4 may construct or rehabilitate space for allowed residential uses within the North End Housing Priority Overlay Area, and aggregate the space for allowed residential uses and the space for other uses from different Proposed Projects of the Applicant's within the North End Housing Priority Overlay Area to meet the ratio required in this Subsection 4 so long as the different Proposed Projects are completed and certificates of occupancy issued within any consecutive period of twenty-four months.

5. Commercial Use Restrictions. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the North End Waterfront Subdistrict, in any building fifty percent (50%) or more of the gross floor area of which

is devoted to allowed and/or conditionally allowed Residential Uses, any uses other than such Residential Uses and uses accessory thereto, shall be forbidden above the second floor.

6. **Allowed Uses.** Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, except as otherwise provided in this Section 42A-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except in accordance with the provisions of this Subsection 6 and Subsection 7 of this Section 42A-18. Any use specified in this Subsection 6 is allowed as a matter of right, subject only to the requirements set forth in the description of such use below:

(a) **Water-Dependent and Water-Related Uses.**

(i) **Water-Dependent Uses.**

Dock, slip, pier, wharf, anchorage, or moorage for Commercial Vessels and Recreational Vessels awaiting servicing, provisions, on or off loading of people or cargo at delivery;
Facilities for the use, hire or charter of Commercial Vessels, Recreational sailing or boating school, Boat Rental Establishment;
Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;
Aquarium and other cultural, educational, research, or training facilities dedicated primarily to marine purposes;
Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis (except that a ferry or cruise boat terminal is forbidden in the North End Waterfront Subdistrict);
Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;
Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, wave deflectors, and the like.

- (ii) Water-Related Uses. Installation, repair, or servicing of boating accessories, marine equipment, marine instruments, or marine motors;
Chandlery, woodworking shop, electrical shop, or similar use for the repair and maintenance of Vessels;
Sale of marine hardware, or boating or diving supplies and equipment.
- (b) Open Space Recreational Uses
Open space for active or passive recreational use or dedicated to the conservation of natural resources, including but not limited to the waterways areas, beaches, reservations, parks, and playgrounds.
- (c) Community Uses and Cultural Uses
Library, museum, gallery, concert hall, legitimate theater, auditorium, performance space, aquarium or historical exhibit, open to public generally;
Community center or community service facility;
Day care center.
- (d) Residential Uses
Building or group of buildings for occupancy by three or more families in separate dwelling units.
- (e) Hotel Uses (except conditional in the North End Housing Priority Overlay Area and by exception, pursuant to Article 6A, elsewhere in the North End Waterfront Subdistrict.
Hotel, conference facilities.
- (f) Office Uses (except conditional in North End Waterfront Subdistrict)
Office of professional persons, not accessory to a main use;
Real estate, insurance, financial service institution, or other agency or government office;
Office or display or sales space of a wholesale, jobbing, or distributing house, provided that the office or display or sales space of a wholesale, jobbing, or distributing house is associated with a Water Dependent Use;
Office building, post office, bank (other than drive-in bank) or similar establishments.
- (g) Local Retail/Service Uses
Store primarily serving the local retail business or service needs of the neighborhood and harbor/waterfront users, including but not limited to chandlery, barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or drycleaner, tailor shop, hand laundry;

Store retailing one or more of the following but not limited to:
food, baked goods, groceries, drugs, tobacco products, clothing,
drygoods, books, film, video, art, flowers, paint, hardware, and
minor household appliances.

(h) General Retail Uses (except conditional in the North End Waterfront Subdistrict)

Department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage;

(i) Restaurant Uses (except conditional in the North End Waterfront Subdistrict for any Proposed Project not subject to or electing to comply with the development review provisions of Section 42A-18)

Lunchroom, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafe provided that at such cafe: food is served; hours of operation do not extend beyond 11:00 p.m.; no music or entertainment is provided; and such use does not significantly interfere with pedestrian access to or passage over Public Access Facilities or Open Space areas open to the public pursuant to Subsection 42A-5.2;

Place for sale and consumption of food and beverages (other than drive-in restaurants) providing dancing or entertainment or both; Pushcart food vendors.

(j) Educational Uses

Marine research and/or training institute for educational institution provided that water access is required for the program or its operation.

(k) Public Service Uses

Flood, water level, or tidal control facility; cable conduit, pipeline crossing, stormwater outlet, or other similar utility structure.

(l) Transportation Uses

Public transportation facility, rapid transit station.

(m) Public Assembly Uses

Cinema

(n) Accessory and Ancillary Uses

Any of the following uses accessory or ancillary to an allowed use, subject to the limitations and restrictions of Article 10:

- (i) any use accessory or ancillary to, and ordinarily incident to, a lawful main use; provided that such use is not specifically forbidden in such district; and provided further that any such use shall be subject to the same restrictions, conditions, limitations, provisos and safeguards as the use to which it is accessory.
- (ii) a parking garage or parking lot for occupants, employees, students, and visitors provided that such use is accessory to a residential use under clause (d) of this Subsection or hotel use under clause (c) of this Subsection.
- (iii) an office, within a main building, of an accountant, architect, attorney, dentist, physician or other professional person who resides in such building.
- (iv) an occupation for profit customarily carried on in a dwelling unit by a person residing therein provided that such occupation is carried on in a main building and requires only equipment ordinarily incident to a dwelling unit and that no non-resident help is employed and that there is not trading in merchandise.
- (v) the keeping of marine life or laboratory animals incidental to a lawful education, community or institutional use.
- (vi) the storage of flammable liquids and gases incidental to lawful use.
- (vii) permanent dwellings for personnel required to be resident on a Lot for the safe and proper operation of a lawful main use.
- (viii) day care center.
- (ix) health club facility.

7. **Conditional Uses.** Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, except as otherwise provided in this Section 42A-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use subject the provisions of Article 6 unless such use is specified in this Subsection 7.

(a) Water-Dependent Uses

Recreational Marina, yacht club.

(b) Open Space Recreational Uses

Recreational structure on an Open Space area that is necessary and/or appropriate to the enhanced enjoyment of the particular Open Space area and is open to the public.

(c) Residential Uses

Limited group care residence, convalescent, nursing or rest home.

(d) General Retail Uses (in the North End Waterfront Subdistrict)

Department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage.

(e) Restaurant Uses (in the North End Waterfront Subdistrict for any Proposed Project not subject to or electing to comply with the development review provisions of Section 42A-8)

Lunchroom, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafe, provided that at such cafe: food is served; hours of operation do not extend beyond 11:00 p.m.; no music or entertainment is provided; and such use does not significantly interfere with pedestrian access to or passage over public access facilities or Open Space areas open to the public pursuant to Subsection 42A-5.2;

Place for sale and consumption of food and beverages (other than drive-in restaurants) providing dancing or entertainment or both; Pushcart food vendors.

(f) Restaurant Uses (in the Downtown Waterfront Subdistrict)

Outdoor cafe not meeting all of the criteria set forth in clause (i) of Subsection 42A-18.6.

(g) Take-out Restaurant

In a structure, sale over the counter, not wholly incidental to a local retail business or restaurant use, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption; if, as so sold, such food or drink is ready for take-out.

(h) Office Uses (in the North End Waterfront Subdistrict)

Office of professional persons, not accessory to a main use; Real estate, insurance, financial service institution, or other agency or government office;

Office building, post office, bank (other than drive-in bank) or similar establishment;

Office or display or sales space of a wholesale, jobbing, or distributing house, provided that the office or display or sales space of a wholesale, jobbing, or distributing house is associated with a Water-Dependent Use.

(i) Parking Uses

Parking garage or parking lot not provided for under clause (n) of 42A-18.6.

(i) Accessory and Ancillary Uses

The following use accessory or ancillary to an allowed or a conditional use, subject to the limitations and restrictions of Article 10: a swimming pool or tennis court.

8. **Forbidden Uses.** Any use not specified as an allowed or conditional use in this Section 42A-18, except for such non-conforming uses as may be allowed to continue under the provisions of Article 9, shall be forbidden uses in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. Without limitation, uses described in Use Items 34A and 38A of Table A of Section 8-7 shall be forbidden uses in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. In addition, and notwithstanding any contrary provision hereof, any use of a floating structure, other than for a Water Dependent Use, shall be forbidden in the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict.

REGULATIONS APPLICABLE IN THE DORCHESTER BAY/NEPONSET RIVER WATERFRONT

SECTION 42A-19. This Section establishes five (5) working waterfront subdistricts in the Dorchester Bay/Neponset River Waterfront. The working waterfront subdistricts are established in order to maintain, foster, and promote the maritime economy within the City of Boston; to provide for light manufacturing water-dependent uses; to preserve sites for maritime-dependent industrial uses along the waterfront consistent with applicable state policy and the needs of the maritime industry; to create opportunities for manufacturing and business on the waterfront; to promote land development that will protect the public health and general welfare; and to maintain a safe and healthy environment.

1. ✓ **Clam Point Waterfront Service Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as the "Clam Point Waterfront Service Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WS-1-35 subdistricts and applicable.
2. ✓ **Neponset River Waterfront Service Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as the "Neponset River Waterfront Service Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WS-1-35 subdistricts are applicable, except that (a) any residential uses allowed in an H-1-35 subdistrict are

allowed provided that the Lot Area for a Proposed Project including such residential uses is thirty thousand (30,000) square feet or more and provided, further, that such Proposed Project is subject to, or elects to comply with, the development review provisions of Section 42A-8, and (b) notwithstanding any contrary provision of Section 42D-3.1(w), there shall be no numerical limit to the allowed slips and/or spaces for any of the following uses:
Recreational Marina, rack, dry stack or landside facility for seasonal dry storage of Recreational Vessels.

3. **Cedar Grove Waterfront Manufacturing Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as "Cedar Grove Waterfront Manufacturing Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WM-1-35 subdistricts are applicable. Notwithstanding provisions of the Code to the contrary, within the Cedar Grove Waterfront Manufacturing Subdistrict any residential use allowed in an H-1-35 district shall be allowed, provided that the Lot Area for any Proposed Project including such residential uses is thirty thousand (30,000) square feet or more and provided, further, that such Proposed Project is subject to, or elects to comply with, the development review provisions of Section 42A-8. A roofed enclosure of an outdoor storage facility for recycled and recyclable materials shall not be included in the computation of the FAR of a Proposed Project, provided that any floor area within such enclosure occupied by any other use, such as, without limitation, office or manufacturing uses, shall be included in the computation

of FAR. Any Proposed Project within the Cedar Grove Waterfront Manufacturing Subdistrict subject to the development review requirements of Section 42A-8 shall include in its development review submissions an analysis of the manner in which the Proposed Project reinforces the physical and visual connections between the subdistrict and the Neponset River.

4. **Neponset Circle Waterfront Manufacturing Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as the "Neponset Circle Waterfront Manufacturing Subdistrict," a maximum Building Height of thirty-five (35) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a maximum FAR of one (1) are allowed, and the regulations of this Code for WM-35 subdistricts are applicable, except that (a) office uses described in Subsection 42C-3.3(d) shall be allowed in any building existing as of the effective date of this Article.
5. **South Boston Maritime Economy Reserve Subdistrict.** Within that portion of the South Boston Waterfront depicted on Map 4A Harborpark District (supplemental to Map 4 South Boston) and Appendix A hereto as the "South Boston Maritime Economy Reserve Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes, silos, storage facilities, or other mechanical devices or facilities used for the transfer of goods from land to waterborne vessels or for the processing of such goods) and a maximum FAR of two (2) are allowed, and the regulations of this Code for MER-2-55 subdistricts are applicable.

SECTION 42A-20. Cedar Grove General Business Subdistrict. This Section establishes the Cedar Grove General Business Subdistrict as depicted on Map 8B Harborpark District (supplemental to Map 1 South Dorchester) and Appendix A hereto. Within the Cedar Grove General Business Subdistrict a maximum FAR of one (1) and a maximum Building Height of thirty-five (35) feet are allowed and the regulations of this Code for a B-1-35 subdistrict are applicable.

SECTION 42A-21. Residential Subdistricts. This Section establishes two (2) residential subdistricts within the Dorchester Bay/Neponset River Waterfront.

1. **Neponset River Residential Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as the "Neponset River Residential Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) is allowed and the regulations of this Code for H-1-35 subdistricts are applicable.
2. **Cedar Grove Residential Subdistrict.** Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on Map 8B Harborpark District (supplemental to Map 8 South Dorchester) and Appendix A hereto as the "Cedar Grove Residential Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this code for R-.5-35 subdistricts are applicable.

SECTION 42A-22. Columbia Point Special Study Overlay Area. This Section establishes the Columbia Point Special Study Overlay Area as depicted on Map 5A

Harborpark District (supplemental to Map 5 North Dorchester) and Appendix A hereto. A comprehensive plan for the Columbia Point Special Study Overlay Area shall be developed, and shall address at a minimum, the following: (a) an appropriate traffic plan; (b) an appropriate land use plan and zoning for the controlled development of back office and new economy uses; (c) an appropriate land use plan and zoning to preserve and enhance open space in the Columbia Point Special Study Overlay Area; (d) an appropriate land use plan and zoning that addresses institutional uses and expansion; and (e) the promotion and enhancement of mixed-income housing. Within the Columbia Point Special Study Overlay Area there are established the following eight (8) subdistricts as depicted on said Map 5A and regulated by the provisions of this Code applicable to subdistricts thus designated:

- (a) H-1-55
- (b) H-2-65
- (c) H-2-D-65
- (d) B-1-55
- (e) B-2-55
- (f) M-1-55
- (g) I-2-65
- (h) I-2-D-65

SECTION 42A-23. Open Space Subdistricts. This Section establishes four (4) open space subdistricts in the Dorchester Bay/Neponset River Waterfront indicated on Table D and shown on Map 5A Harborpark District (supplemental to Map 5 North Dorchester) and in May 8B Harborpark District (supplemental to Map 8 South Dorchester) and in Appendix A hereto. Any Lot within any such open space subdistrict is subject to the provisions of this Code applicable to such subdistrict, including without limitation, Article 33, Open Space Subdistricts.

TABLE D

**Open Space Subdistricts in the Dorchester Bay/Neponset
River Waterfront**

<u>Location</u>	<u>Subdistrict Designation</u>
Savin Hill	Shoreland*
Victory Park	Shoreland*
Neponset Shoreland	Shoreland*
Lower Mills Shoreland	Shoreland*
Castle Island/Columbus Park	Shoreland*

- * Shoreland open space subdistricts consist of land bordering on tidewater or the ocean, including land over which the tide ebbs and flows, or any bank, marsh, beach, dune, swamp, salt meadow, tidal floor, or other low land subject to tidal action or coastal storm flowage. See Section 33-11.

MISCELLANEOUS PROVISIONS

SECTION 42A-24. Regulations. The Boston Redevelopment Authority may promulgate regulations to administer this article.

SECTION 42A-25. Rights to Navigation. No provision of this code shall be construed as a limitation upon the navigational rights of vessels or upon the regulation thereof by the United States.

SECTION 42A-26. Severability. The provisions and requirements of this article are severable, and if any such requirements or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision or requirement of this article.

SECTION 42A-27. Definitions. Words and phrases defined in Appendix B to this Article, when capitalized in this Article, shall have the meanings set forth in said Appendix B.

SECTION 42A-28. Appendices. The following appendices are attached to and are hereby made part of this article:

1. Appendix A - North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront
2. Appendix B - Definitions
3. Appendix C - Water Dependent Uses and Facilities of Public Accommodation

APPENDIX B

Definitions

For the purposes of Articles 42A, 42B, 42C, and 42D only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Adjusted Income" is defined as it is in 24 CFR 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, or 42A-5.5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.
2. "Affordable" means, in the case of an owner-occupied dwelling unit, requiring the expenditure by a Low-Income, Moderate-Income or Upper Moderate Income Household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty percent (30%) of its Adjusted Income to occupy the unit, and, in the case of a renter-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household or Upper-Moderate Income Household for rent payments of not more than thirty percent (30%) of its Adjusted Income to occupy the unit.
3. "Annual Income" is defined as it is in 24 CFR 813.106, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, or 42A-5.5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.
4. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 42A-4, 42B-4, 42C-2, or 42D-2, as the case may be, or the authorized agent of any such person or entity.
5. "Boat Rental Establishment" means any use or establishment that involves the renting, hiring, or instruction in the use of any sailboat, rowboat, or other Recreational Vessel that does not require an operator's license by the United States Coast Guard or the conferring of seasonal use privileges in a fleet of such Recreational Vessels.
6. "Building Height," notwithstanding the provisions of clause 23 of Subsection 2-1, means (a) for a flat roof, the vertical distance from the grade to the top of the highest point of the roof beams of a flat roof, excluding mechanical roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, and (b) for a pitched roof, the vertical distance from grade to the lower (i) of the mean level of the highest gable or of the slope of a hip roof or (ii) of the top of the habitable space of a structure. A mansard roof shall be considered a flat roof. For Piers, grade shall be measured from the top of the deck of the Pier. The foregoing notwithstanding, except within the Downtown Waterfront Subdistrict, the North End Waterfront Subdistrict, the Charlestown Gateway Subdistrict, and the Charlestown Navy Yard Subdistrict, mechanical roof structures and penthouses normally built above the roof and not used or designed for human occupancy shall not be excluded in calculating Building Heights if such structures and penthouses, in the

aggregate, occupy more than thirty-three and one-third (33 1/3%) of the roof area.

7. "Bulkhead" means a vertical structure used to create an edge between the land and the water against which Vessels can be placed to unload or engage in other activities.
8. "Chapter 91" means M.G.L. Chapter 91 and implementing regulations, codified as of the effective date of this article at 310 C.M.R. 9.00, as said statute and regulations may, from time to time, be amended.
9. "Charlestown Navy Yard Master Plan" means that certain master plan of the Charlestown Navy Yard adopted by the Boston Redevelopment Authority on _____, 1990.
10. "Charlestown Waterfront" means the Charlestown Navy Yard Subdistrict, Charlestown Gateway Subdistrict, Charlestown Maritime Economy Reserve Subdistrict, Mystic River Waterfront Manufacturing Subdistrict, Terminal Street Waterfront Manufacturing Subdistrict, Little Mystic Waterfront Service Subdistrict, Charlestown General Industrial Subdistrict, Little Mystic Waterfront Residential Subdistrict, Paul Revere Landing Open Space Subdistrict, Little Mystic Waterfront Access Open Space Subdistrict, William J. Barry Playground Open Space Subdistrict, and J.J. Ryan Playground Open Space Subdistrict.
11. "Commonwealth Tidelands" means:
 - (a) Tidelands to which title is held by the Commonwealth or by its political subdivisions or a quasi-public agency or authority; such Tidelands include all Tidelands lying seaward of any location where title to such Tidelands is not held by a private person; and
 - (b) Tidelands to which title is held by a private person by license or grant of the Commonwealth, provided such Tidelands lie seaward of the Natural Low Tide Line or of a line running 100 rods (1,650 feet) seaward of the Natural High Tide Line, whichever is farther landward, and provided further that such Tidelands have not been demonstrated by the owner to be unconditionally free of any proprietary interest in the Commonwealth, pursuant to a final judgment of a court of the Commonwealth.

The foregoing definition is intended to be consistent with draft regulations implementing Chapter 91 issued by the Department of Environmental Protection of the Commonwealth of Massachusetts, dated July 18, 1989. In the event that such regulations, as ultimately promulgated, reflect a definition of such term different from the foregoing, the foregoing shall be deemed modified accordingly.

12. "Cultural Uses" means use for legitimate theater, concert hall, auditorium, museum, gallery, performance space, aquarium, or historical exhibit.

13. "Dorchester Bay/Neponset River Waterfront" means the Clam Point Waterfront Service Subdistrict, the Neponset River Waterfront Service Subdistrict, the Cedar Grove Waterfront Manufacturing Subdistrict, the Neponset River Waterfront Manufacturing Subdistrict, the South Boston Maritime Economy Reserve Subdistrict, the Cedar Grove General Business Subdistrict, the Neponset River Residential Subdistrict, the Cedar Grove Residential Subdistrict, the Savin Hill Open Space Subdistrict, the Victory Park Open Space Subdistrict, the Neponset Shoreland Open Space Subdistrict, the Lower Mills Shoreland Open Space Subdistrict, the Castle Island/Columbus Park Open Space Subdistricts, and the subdistricts included within the Columbia Point Special Study Overlay Area.
14. "End" of a Pier means the edge of the Pier that is most nearly opposite the edge connecting the Pier with dry land and most nearly parallel to the 1880 Harbor Line or, if the 1880 Harbor Line is not applicable, the general direction of the shoreline.
15. "Existing Pier" means a Pier existing as of the date of the first notice of hearing for the adoption of this Article before the Zoning Commission. However, within the Downtown Waterfront Subdistrict and the North End Waterfront Subdistrict an "Existing Pier" means a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existed as of the effective date of this Article. Within the Downtown Waterfront Subdistrict, an Existing Pier shall also mean a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existing in 1938 as depicted in the Atlas of the City of Boston: Boston Proper and Back Bay, (Philadelphia: G.W. Bromley and Co., 1939).
16. "Facility of Public Accommodation" means a use so described in Appendix C.
17. "FAR" means floor area ratio, as defined in Section 2-1, subject to the provisions of Section 15-1 regarding calculation of the area of the Lot.
18. "Filled Tidelands" means former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill.
19. "Flowed Tidelands" means present submerged lands and tidal flats which are subject to tidal action at the time of license application under Chapter 91.
20. "Harborpark District" means the Charlestown Waterfront, the North End/Downtown Waterfront, and the Dorchester Bay/Neponset River Waterfront.
21. "Harborpark District Plan" means the plan of the same name adopted or to be adopted by the Boston Redevelopment Authority.
22. "High/Low Tide Line" means the present arithmetic mean of the water heights observed at high tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) and shall be determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce.

23. "Index" means Consumer Price Index for all Urban Consumers, Boston, MA, all items - Series A (1982-84 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor or, in the event such Consumer Price Index ceases to be published by the United States Department of Labor, a similar published index measuring consumer price levels in the Boston Metropolitan Area, as designated by the Boston Redevelopment Authority.
24. "Lot", notwithstanding the provisions of clause 26 of Subsection 2-1, means a parcel of land, including land under water (a) whether or not platted, (b) in common control and combined for a single Proposed Project or in single ownership, and (c) not divided by a street.
25. "Lot Area", notwithstanding the provisions of clause 27 of Subsection 2-1, means the horizontal area of the Lot exclusive (a) of any area in a street, (b) of any area in a private way devoted to public use by motor vehicles, (c) of any fresh water area more than ten (10) feet from the shoreline, and (d) of any salt water area below the High Tide Line. The foregoing notwithstanding, (x) the horizontal area of any Pier located in the Lot and (y) a private way open to vehicles for the purpose of accessing the Lot only and a street or private way open only to pedestrians and emergency vehicles shall be included in the Lot Area. Further, if a Proposed Project shall result in a net reduction in the horizontal area of Piers on the Lot, then Lot Area shall be computed on the basis of the horizontal area of said Piers as of the commencement of the Proposed Project.
26. "Low-Income Household" means any household whose Annual Income does not exceed 50% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.
27. "Main Shipping Channel" means the shipping channel for deep draft vessels in the Boston Inner Harbor as depicted by dashed lines on that certain chart issued by National Oceanic and Atmospheric Administration as chart number 13272 and entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.
28. "Marina Amenity Uses" means those uses identified as such in Subsection 42B-18.5.
29. "Maritime Economy Reserve Subdistrict" means a subdistrict subject to the provisions of this Code applicable within an MER district.
30. "Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR Section 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, and 42A-5.5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.
31. "Moderate-Income Household" means any household whose Annual Income does not exceed 80% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.

32. "Municipal Harbor Plan" means the municipal harbor plan contemplated in draft regulations implementing Chapter 91 issued by the Department of Environmental Protection of the Commonwealth of Massachusetts, dated July 18, 1987, as such regulations may be modified or amended.
33. "Natural High/Low Tide Line" means the historic high/low tide line that would be observed except for alteration of the shore line by filling, dredging, or impounding.
34. "North End/Downtown Waterfront" means the Downtown Waterfront Subdistrict, North End Waterfront Subdistrict, North End Local Business Subdistrict, Waterfront Park Parkland Open Space Subdistrict, and North End Playground Recreation Open Space Subdistrict.
35. "North End/Downtown Prevailing Shoreline" means the line, so entitled, shown on Map 1E Harborpark District (supplemental to Map 1 Boston Proper).
36. "Open Space" has the meaning set forth in Section 42A-6 or Section 42B-6, as the case may be.
37. "Pedestrian Access Network" means a pedestrian network of a kind and to a degree that is appropriate for the site and consisting of, at a minimum:
 - (i) walkways and related facilities along the entire length of the shoreline, and along the edges of any Piers or filled areas, which walkways shall be no less than twelve (12) feet in width; and
 - (ii) appropriate connecting walkways that allow pedestrians access to shoreline and Pier walkways from public ways or other Public Access Facilities to which any Commonwealth Tidelands or Private Tidelands on the site are adjacent.
38. "Pier" means any structure that extends seaward of the High Tide Line, but excluding any floating structure.
39. "Private Tidelands" means Tidelands, the title to which is held by a private person, and which lie between the Natural High Tide Line and either the Natural Low Tide Line or a line running 100 rods (1,650 feet) seaward of the Natural High Tide Line, whichever is farther landward.

The foregoing definition is intended to be consistent with draft regulations implementing Chapter 91 issued by the Department of Environmental Protection of the Commonwealth of Massachusetts, dated July 18, 1989. In the event that such regulations, as ultimately promulgated, reflect a definition of such term different from the foregoing, the foregoing shall be deemed modified accordingly.
40. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change or extension of use of any structure or land (including submerged land and Tidelands), for which the Applicant is required to obtain a building or use permit. A Proposed

Project may be built in phases and may include separate or connected building elements on the same Lot.

41. "Public Access Facility" means a facility for pedestrian access to and/or along the waterfront, as provided in clauses (a) and (b) of Subsection 42A-5.2 or of Subsection 42B-5.2, as the case may be.
42. "Public Agency" means a department, agency, board, commission, authority, or other instrumentality of the Commonwealth of Massachusetts, or one or more political subdivisions of the Commonwealth, or of the United States. For the purposes of this article, the Commonwealth's proprietary interest in Tidelands shall not constitute "ownership" by a Public Agency.
43. "Public Boat Ramp" means any ramp structure that provides public access to or egress from the water for Vessels.
44. "Recreational Marina" means any arrangement of docks, slips, Piers, pilings, moorings, or other facilities in or adjacent to the water, for use primarily by Recreational Vessels, including, but not limited to, any such facility associated with a yacht club or boat club.
45. "Seasonal Dry Storage" means the storage of Recreational Vessels on land for periodic use in the water during the active boating season, generally from April through October.
46. "Sides" of a Pier means the edges of the Pier other than the edge connecting the Pier with dry land and other than the End of the Pier.
47. "Tidelands" means present and former submerged lands and tidal flats lying between the Natural High Tide Line and the seaward limit of state jurisdiction.
48. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.
49. "Upper-Moderate Income Household" means any household whose Annual Income does not exceed 110% of the Median Gross Income of Households in the Boston Standard Metropolitan Statistical Area.
50. "Vessel" means any watercraft, including, but not limited to, a Commercial Vessel or Recreational Vessel, but not including any floating structure permanently moored or attached to land or a Pier.
51. "Vessel, Commercial" means any Vessel used for the principal purpose of engaging in a water-related commercial activity, including, but not limited to, charter boat, fishing boat, tug boat, cruise boat, freighter, or barge.
52. "Vessel, Recreational" means any Vessel used principally for recreational purposes.

53. "Water-Dependent Commercial Use" means a use described in Subsection 42D-3.1.
54. "Water-Dependent Use" means those uses described as such in Appendix C.
55. "Water-Dependent Facility of Public Accommodation" means a Facility of Public Accommodation that is also a Water-Dependent Use.
56. "Waterfront Yard Area" has the meaning ascribed in Section 42A-7.
57. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.
58. "1880 Harbor Line" means that line established by Chapter 170 of the Massachusetts Acts of 1880 as the then applicable seaward limit of Pier and wharf construction.
59. "Pierhead Line" means the seaward limit of Pier construction as established in applicable law of the Commonwealth of Massachusetts.

APPENDIX C

Water-Dependent Uses

Water-dependent industrial uses;
Facilities for fishing, swimming, diving, and other water-based recreational activities;
Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;
Aquariums and other cultural, educational, research, or training facilities dedicated primarily to marine purposes;
Aquaculture facilities;
Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;
Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, water deflectors, and the like;
Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis;
Marinas, boat basins, Boat Rental Establishments, boating or sailing school, channels, storage areas, and other facilities and establishments for commercial or recreational boating.

Facilities of Public Accommodation

A "Facility of Public Accommodation" means a facility, including a commercial facility, at which goods or services are made available directly to the general public. Facilities of Public Accommodation include, but are not limited to:

Lunch room, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, provided that there is no dancing nor entertainment other than phonograph, radio and television;
Place for sale and consumption of food and beverages (other than drive-in restaurant) providing dancing or entertainment or both, provided that such establishment is customarily open to the public at large and does not exclude any minor by reason of age as a prevailing practice;
Theater;
Lobbies and public areas of a hotel or motel;
Library, museum, aquarium, educational, historical, or cultural institution open to the public;
Adult education center, community center, or other interior space dedicated to the programming of community meetings, informational displays, special recreational events, or other public activities;
Store primarily serving the local retail business needs of the residents of the neighborhood, including, but not limited to, store retailing one or more of the following: food, baked goods, groceries, drugs, tobacco products, clothing, dry goods, books, flowers, paint, hardware and minor household appliances, but not including packaged alcoholic beverages;

Department store, furniture store, general merchandise mart or other store serving general retail business needs of a major part of the city, including accessory storage;
Barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or dry-cleaner, or similar use;
Tailor shop or hand laundry;
Caterer's establishment, photographer's studio, upholsterer's shop, carpenter's shop, or electrician's shop;
Daycare facility; and
Sports or physical fitness facility open to the public;
Interior facility for water-borne public transportation facilities, recreational marina, boat rental establishment, recreational sailing or boating school, or other recreational boating facility or establishment.

3/15/90 OK

Text Amendment Application No.
Boston Redevelopment Authority
Harborpark District: Charlestown
Waterfront

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting, after Article 41, the following article:

ARTICLE 42B

**HARBORPARK DISTRICT
CHARLESTOWN WATERFRONT**

SECTION 42B-1. Statement of Purpose, Goals and Objectives. The purpose of this Article is to establish the zoning regulations for the comprehensive plan for the Harborpark District as required by the provisions of the Harborpark Interim Planning Overlay District, Article 27C of this Code. The goals and objectives of this Article and the Harborpark District Plan are to protect the Harborpark District from inappropriate land and water uses; to promote balanced growth along Boston's shoreline; to allow the waterfront to be used as a public resource and thereby to extend its use and benefit to the greatest number of people; to preserve and protect public open space and beach area within the harbor area; to promote public access to the waterfront; to promote residential and mixed-use commercial activities compatible with adjacent areas; to promote the economic growth and development of water-dependent and water-related commercial activity; to protect the working waterfront and preserve areas for water dependent uses; to promote public waterborne transportation; and to promote uses which integrate uses, activities, and physical connections between the harbor and its surrounding neighborhoods.

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031590/1

SECTION 42B-2. Recognition of the Harborpark District Plan. In accordance with Section 27C-16 of this Code, which requires production of comprehensive planning policies, development controls, and design guidelines for the Harborpark District, the commission hereby recognizes the Harborpark District Plan as the general plan for the Harborpark District. The Harborpark District Plan shall also serve as the portion of the general plan for the City of Boston applicable to the Harborpark District. This Article is an integral part of and one of the means of implementing the Harborpark District Plan, the preparation of which is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 42B-3. Physical Boundaries. The provisions of this Article are applicable only in the Charlestown Waterfront within the Harborpark District. The boundaries of the Charlestown Waterfront within the Harborpark District and its subdistricts are as shown on the map "Map 2B Harborpark District (supplemental to 'Map 2 Charlestown')," of the series of maps entitled "Zoning Districts-City of Boston," as amended, and as depicted on Appendix A to this article.

SECTION 42B-4. Applicability. This Article together with the rest of this code constitutes the zoning regulation for the Charlestown Waterfront within the Harborpark District and applies to the use or occupancy of any structure or land (including submerged land and Tidelands) and the erection, reconstruction, extension, or alteration of any structure or part thereof as specified in Section 4-1 regarding the conformity of structures and land to this code.

Exceptions to the provisions of this Article, pursuant to Article 6A, shall not be available except to the extent expressly provided in this Article or Article 6A.

Application of the provisions of Article 27C to the Charlestown Waterfront within the Harborpark District is rescinded on the effective date of this Article, except as provided below. For the Charlestown Gateway Subdistrict and the Charlestown Navy Yard Subdistrict, except where specifically otherwise indicated in this Article, the provisions of this Article supersede Article 8 (except Section 8-6), Article 13 (except Section 13-3) and Articles 14 through 24, inclusive, of this code. For the entire Charlestown Waterfront within the Harborpark Subdistrict where conflicts exist between the provisions of this Article and the remainder of the Code, the provisions of this Article shall govern. The following Proposed Projects, however, are exempt from the provisions of this Article, and are governed by the rest of this Code, including Article 27C:

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article and for which no Zoning Relief is required.
2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

TIDELANDS REGULATIONS

SECTION 42B-5. Chapter 91 Requirements. In accordance with Chapter 91 of the General Laws of Massachusetts ("Chapter 91") and the regulations promulgated thereunder, certain Projects (as that term is defined below) located in Tidelands require a license ("Chapter 91 License") from the Commonwealth's Department of Environmental Protection ("DEP"). Section 18 of Chapter 91 requires that the planning board of a municipality in which a Project requiring a Chapter 91 license is located (i.e., the Boston Redevelopment Authority, in Boston) submit a written recommendation ("Section 18 Recommendation") stating whether the planning board believes the Project would serve a proper public purpose and would not be detrimental to the public's rights in Tidelands (the "Section 18 Standard"). Such a Section 18 Recommendation with respect to a Project requiring a Chapter 91 License and located in the Harborpark District shall be made by the Boston Redevelopment Authority in accordance with the provisions of Subsection 1 of this Section 42B-5. For the purposes of this Section 42B-5 only, the term "Project" shall mean a development, activity, or change of use requiring a Chapter 91 license. The zoning regulations applicable to the Harborpark District are intended to constitute part of the Municipal Harbor Plan for the Harborpark District. Other parts include the Harborpark District Plan, and other laws and planning documents identified in the municipal harbor plan.

1. **Determination of Proper Public Purpose.** The Boston Redevelopment Authority, in making a Section 18 Recommendation regarding a Project located in the Charlestown Waterfront within the Harborpark District, shall determine whether such Project serves a proper public purpose and would not be detrimental to the public's rights in Tidelands. The Boston Redevelopment Authority shall base such determination on the conformity of

the Project to the provisions of Subsections 2 through 9 of this Section, and on the extent to which the Project reasonably and appropriately preserves and enhances the public's rights in Tidelands including, without limitation, the public's:

- (a) visual access to the water, whether such Project is for a water-dependent or non-water-dependent use on Private or Commonwealth Tidelands;
- (b) rights to fishing, fowling, and navigation and the natural derivatives thereof, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Private or Commonwealth Tidelands;
- (c) physical access to and along the water's edge for recreation, commerce, and other lawful purposes, and interest in public recreational opportunities at the water's edge and open space for public use and enjoyment, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Commonwealth Tidelands;
- (d) interest in the preservation of the historic character of the Project's site;
- (e) interest in industrial and commercial waterborne transportation of goods and persons;
- (f) interest in repair and rehabilitation of dilapidated piers that blight the Harborpark District and limit public access; and

(g) interest in safe and convenient navigation in Boston Harbor, including without limitation:

- (i) navigation by water transportation Vessels, such as ferries, water taxis, water shuttles, or commuter vessels, including, without limitation, appropriate and convenient navigation by such Vessels outside of the Main Shipping Channel and other established channels;
- (ii) navigation by deep draft Vessels, including without limitation, appropriate navigation in the Main Shipping Channel and other established channels and the requirements of turning, anchorage, and approaches to deep water piers and berths;
- (iii) navigation by Recreational Vessels and small Commercial Vessels outside of the Main Shipping Channel and other established channels as necessary or convenient for such vessels to avoid interference with water transportation Vessels and deep draft shipping and as otherwise required for the purposes of harbor traffic management; and
- (iv) navigation, as appropriate to the site, by U.S. Coast Guard, U.S. Naval, police, fire, and other public safety Vessels.

2. **Public Access to the Waterfront and Open Space.** Public access to the waterfront and Open Space is a central policy of the Harborpark District

Plan. Pursuant to this policy, the Boston Redevelopment Authority shall not make a positive Section 18 Recommendation with respect to a Project that the Boston Redevelopment Authority determines will significantly interfere with public rights to walk or otherwise pass freely on Commonwealth Tidelands for purposes of commerce, recreation, and all other lawful activities; or on Private Tidelands for purposes of fishing, fowling, navigation, and the natural derivatives thereof. The Boston Redevelopment Authority shall find that the Section 18 Standard is not met if the Project does not comply with the following public access conditions:

- (a) To the extent that the Project site includes Flowed Private Tidelands, the Project shall allow continuous, on-foot, lateral passage by the public in the exercise of its rights therein, wherever feasible; any Pier, wharf, groin, jetty, or other structure on such Tidelands shall be designed to minimize interference with public passage, either by maintaining at least a five-foot clearance above the ground along the high water mark, by providing a stairway for the public to pass laterally over such structures or other means of lateral access substantially consistent with the foregoing; where obstruction of continuous access below the high water mark is unavoidable, the Project shall provide free lateral passage to the public above said mark in order to mitigate interference with the public's right to pass freely on Flowed Private Tidelands;
- (b) To the extent that the Project site includes Flowed or Filled Commonwealth Tidelands, or Filled Private Tidelands, the Project shall include reasonable measures to provide on-foot passage on such lands

for the public in the exercise of its rights therein, in accordance with the following provisions:

- (i) if the Project is not a Water-Dependent Use Project, said Project shall provide a public Pedestrian Access Network;
 - (ii) if the Project is a Water-Dependent Use Project, the Project shall provide for public passage by such means as are consistent with the need to avoid undue interference with the Water-Dependent Use or Uses in question and to avoid any safety hazard to people working on or visiting the Project site; measures which may be appropriate in this regard include, but are not limited to, allowing the public to pass laterally along portions of the Project shoreline, or transversely across the site to a point on the Project shoreline;
- (c) All Open Space areas established pursuant to Section 42B-6 located on Commonwealth Tidelands and all Public Access Facilities described in paragraphs (a) and (b) of this Subsection 2 shall be open and accessible to the public 24 hours a day. No gates, fences, or barriers may be placed on said Public Access Facilities or Open Space in a manner that would impede or discourage the free flow of pedestrian movement thereon. The foregoing shall not be deemed to prohibit the placing of temporary barriers as required in emergencies or in connection with construction, maintenance or the like, provided that interference with pedestrian access and passage is minimized to the extent reasonably practicable and consistent with public safety and that such barriers are in place no longer than necessary. All such pedestrian access facilities

shall be Accessible to Physically Handicapped Persons as those terms are defined in Section 30-2. Active pedestrian use of such Open Space areas and pedestrian access facilities shall be encouraged on a year-round basis, particularly for water-related activities, through such means as appropriate ground level uses of adjacent buildings and facilities and amenities designed to be attractive to pedestrians.

Maintaining, cleaning, landscaping, and managing such Open Space areas and pedestrian access facilities shall at all times be the responsibility of the Chapter 91 licensee of the Project. The Applicant for any Project subject to or electing to comply with the development review provisions of Section 42B-8 shall include in the urban design component of its Draft Project Impact Report, submitted pursuant to Section 31-5.3, an Open Space and Public Access Plan, including plans, drawings, specifications, descriptions of proposed uses, and descriptions of proposed management measures and access-related rules and regulations, if any, sufficient to permit the Boston Redevelopment Authority to determine the conformity of the Project to this Subsection 2 and Section 42B-6, and to make a Section 18 Recommendation.

- (d) Any Project required to provide public access facilities in accordance with paragraph (b), above, shall encourage public patronage of such facilities by placing and maintaining adequate signage at all entryways and at other appropriate locations on the site; said signage shall:
 - (i) conform to Article 11, Signs, of the code;

- (ii) conform, as applicable, to design guidelines for Harborwalk signage to be issued as regulations by the Boston Redevelopment Authority; and
 - (iii) include at least one sign, conforming to such design guidelines and placed in a prominent location, which advises the public of its access rights and discloses whatever access-related rules and regulations are in effect, if any.
 - (f) Within any maritime economy reserve subdistrict, public access shall be required as set forth above, but only to the extent to which it does not significantly interfere with or obstruct the operation of a maritime-dependent industrial use or pose a safety hazard to workers or visitors on the site of such use.
3. **Creation of Housing on Land not Owned by a Public Agency.** In a Project to construct ten (10) or more units of housing in the Charlestown Waterfront within the Harborpark District on a Lot not owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Section 31-5.1, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which Lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least ten percent (10%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority to the extent that such ten percent requirement is not met, the

Applicant shall create or cause the creation of Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.2, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective date of this Article, and multiplying that result by the ratio of the then Index to the Index in effect as of such effective date.

4. **Creation of Housing on Land Owned by a Public Agency.** In a Project to construct four (4) or more units of housing on a Lot that is owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Section 31-5.1, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least twenty-five percent (25%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority, to the extent such twenty-five percent requirement is not met, the Applicant shall create or cause the creation of Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by the Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.5, and multiplying the result by the average per unit assistance granted by the

Neighborhood Housing Trust for the twelve months prior to the effective date of this article, and multiplying that result by the ratio of the then Index to the Index in effect as of the effective date of this article.

Anything to the contrary herein contained notwithstanding, the provisions of this Subsection 4 and of Subsection 5 of this Section 42B-5 shall apply to any Proposed Project located in the Charlestown Navy Yard Subdistrict.

5. **Construction of Affordable Housing Off-Site.** The following provisions shall govern the construction of Affordable dwelling units off-site in satisfaction of the requirements of Subsections 3 and/or 4 of this Section:
 - (a) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the Charlestown Navy Yard Subdistrict, the Applicant may fulfill the obligations of subsection 4 of this Section by creating housing off-site in the Charlestown Navy Yard Subdistrict or the Charlestown neighborhood. In determining whether to approve the construction of Affordable dwelling units off-site, the Boston Redevelopment Authority shall take into account the number of Affordable dwelling units which have been created in the Charlestown Navy Yard or Charlestown Neighborhood, since the effective date of this Article. The Boston Redevelopment Authority shall base its approval on the standard that a minimum of twenty-five percent (25%) of the total number of housing units to be constructed after the effective date of this Article within the Charlestown Navy Yard Subdistrict are to be Affordable.

- (b) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the Charlestown Waterfront within the Harborpark District, other than in the Charlestown Navy Yard Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off-site in the vicinity of the Project either within the Harborpark District or within the adjacent neighborhood.

6. **Provision for Water Transportation Facilities.** To promote an effective water transportation system and to ensure use of the waterfront and full access to recreational, commuting, and economic activities, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met with respect to a Project located in the Charlestown Gateway Subdistrict or Charlestown Navy Yard Subdistrict unless the Project conforms to the requirements for water transportation facilities set forth below, as applicable:

- (a) **Water Transportation Facility Requirement.** In making a Section 18 Recommendation with respect to such a Project, the Boston Redevelopment Authority shall consider the extent to which provision is made on the Project site for waterborne passenger transportation facilities, including, without limitation, terminals and landings for water ferries, water shuttles, or water taxis, and free public landings, as appropriate to the scale, use, and location of the Project and in accordance with the water transportation guidelines of the Harborpark District Plan.

(b) **Shoreline Construction.** In order to provide appropriate docking areas for emergencies and other harbor activities, all portions of the shoreline of a Project consisting of seawalls or bulkheads, but not including Piers, which are restructured and which abut waters accessible by Vessels shall be constructed, to the extent reasonably practicable, in such a manner as can accommodate such Vessels alongside for dockage.

7. **Uses Allowed in Tidelands Proposed to be Filled and on Floating Structures.**

No portion of a Project located on Tidelands which are filled after the date of the first notice of hearing before the Zoning Commission on this Article, shall be erected, used, or arranged or designed to be used except for a Water-Dependent Use otherwise allowed or conditionally permitted for such Proposed Project, subject to the provisions of Article 6 by this Article. In making a Section 18 Recommendation with respect to a Project involving such new fill, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless such new fill is limited to the extent reasonably practicable by measures such as substituting pile-supported or floating structures for new fill or relocating the use to a position above the High Tide Line. The foregoing shall not, however, prohibit or limit the use of new fill the purpose of which is to eliminate irregularities in or repair previously altered portions of the shoreline included in the Project, provided that such new fill replaces previously authorized fill elsewhere along such shoreline on a one-to-one square foot basis (new fill to removed fill). The foregoing shall also not prohibit or limit the use of new fill the purpose of which is to accommodate mechanical elements of the Project that enter the seabed, such as, without limitation, elevator shafts, ventilation shafts, utility

conduits, or the like, and any associated structural elements, provided that such fill is limited to that reasonably required under the circumstances and provided, further, that all such mechanical elements, structural elements, and fill are wholly contained within the edges of a Pier. Piles are not considered "fill" for the purposes of this Article. New fill, in any event, is prohibited in any area where Pier construction or extension is prohibited by this Code.

No floating structure, other than a vessel, shall be used or arranged or designed to be used except for a Water-Dependent Use otherwise allowed for such Proposed Project or conditionally permitted, subject to the provisions of Article 6.

8. **Regulations Governing Piers and Other Structures in the Charlestown Gateway Subdistrict and the Charlestown Navy Yard Subdistrict.** Within the Charlestown Navy Yard Subdistrict, and Charlestown Gateway Subdistrict, no portion of any Pier shall extend beyond the Pierhead Line.
9. **Regulations Governing Piers and Other Structures Elsewhere in the Charlestown Waterfront.** In the Charlestown Waterfront within the Harborpark District, except in the Charlestown Gateway Subdistrict and the Charlestown Navy Yard Subdistrict, no portion of any Pier, other than an Existing Pier, shall be erected, used, or arranged or designed to be used except as publicly accessible Open Space or for a Water Dependent Use otherwise allowed or conditionally permitted, subject to the requirements of Article 6, for the location pursuant to this Article.

OTHER HARBORPARK REGULATIONS OF GENERAL APPLICATION

SECTION 42B-6. Open Space Requirements. Any Proposed Project in the Charlestown Gateway Subdistrict involving new construction at grade, except a Proposed Project with a gross floor area of 2,500 square feet or less used exclusively for one or more Water Dependent Uses, shall devote to Open Space at least fifty percent (50%) of the Lot Area of such Proposed Project.

In addition, at least fifty percent (50%) of the total Lot Area of all Lots included within the Charlestown Navy Yard, excluding the Historic Monument Area, shall be devoted to Open Space. The Department of Inspectional Services shall not issue a building permit with respect to a Proposed Project within the Charlestown Navy Yard, excluding the Historic Monument Area, involving new construction not wholly contained within the envelope of an existing building without first receiving a certification by the Boston Redevelopment Authority that such Proposed Project includes or provides for sufficient Open Space in the context of existing and planned development contemplated in the Charlestown Navy Yard Master Plan and this Article, so that the foregoing fifty percent (50%) Open Space requirement will be met in the context of such existing and planned development.

For the purposes of this Article, the term "Open Space" shall mean land areas and areas on Piers excluding (a) any area occupied by a building or roofed structure; (b) any parking lot or parking area; (c) any street; (d) any private road or area devoted to motor vehicle use; (e) any salt-water area below the mean high tide line, other than areas on Piers; (f) any fresh water area more than ten (10) feet from the shoreline; (g) marina slips or floats or other floating structures; (h) swimming pools; and (i) tennis courts.

The foregoing notwithstanding, the following areas shall be deemed "Open Space":

- (w) any area occupied by a building not exceeding a Building Height of fifteen (15) feet and a gross floor area of 400 square feet and reserved exclusively for use as a Water Dependent Use or a recreational use permitted as a conditional use pursuant to Subsection 42B-18.7(b) or Subsection 42B-25.7(a);
- (x) any area occupied by a street or private way open only to pedestrians and emergency vehicles;
- (y) any area at grade, pedestrian-accessible to members of the public 24-hours per day, covered by a weather-protective enclosure or roof structure, but not by any portion of a building which portion is used or designed to be used for however occupancy or contains or supports mechanical equipment principally serving portions of the building other than the enclosed Open Space area, provided that an exception allowing the designation of such area as Open Space is granted by the Board of Appeal, subject to the requirements of Article 6;
- (z) any area beneath an archway, which archway is not less than forty (40) feet wide at grade and forty (40) feet high at its apex and open at both ends.

All Open Space areas shall be Accessible to Physically Handicapped Persons, as those terms are defined in Section 30-2. The foregoing shall not prohibit

occasional access to or over Open Space by service vehicles reasonably required to construct or maintain the structures on the Lot or by emergency vehicles. However, routine access to or over Open Space areas by vehicles transporting, loading, or unloading passengers or supplies for the normal operation of buildings and uses is not consistent with the foregoing definition. An area otherwise qualifying as Open Space, but occupied by cultural uses in satisfaction of the requirements of Section 42B-5.7, shall not be included in the calculation of Open Space for a Proposed Project; provided that the Board of Appeal may grant an exception allowing such area to be counted in satisfaction of the requirements of both this Subsection and Subsection 42B-5.7 if the proposed use and design of such area is consistent with the goals of promoting active public use of Open Space areas and of promoting cultural activities or the Waterfront, as certified to the Board of Appeal by the Boston Redevelopment Authority.

SECTION 42B-7. Waterfront Yard Area Requirements. Except as otherwise expressly provided in this Article, each Lot in the Charlestown Waterfront within the Harborpark District adjacent to or including the High Tide Line shall include a Waterfront Yard Area adjacent to and landward of such High Tide Line, excluding portions of the High Tide Line occupied by Piers. A Waterfront Yard Area shall also be required along the edges of any Pier. The required Waterfront Yard Area landward of the High Tide Line and the required Waterfront Yard Area on Piers shall be connected so as to provide a continuous path along the waterfront, with a minimum width at the places of connection of no less than twelve (12) feet.

The dimensions of the required Waterfront Yard Area are set forth in Table A of this Article.

TABLE A

Required Depth of Waterfront Yard Area

<u>Location</u>	<u>Required Setback (Shoreline, excluding Piers)</u>	<u>Required Setback (Sides of Piers)</u>	<u>Required Setback (Ends of Piers)</u>
Charlestown Waterfront Subdistrict	35'	12'	75'

The provisions of Article 6A, Other Exceptions, shall be applicable to the Waterfront Yard Area requirement. The following additional provisions shall apply to the Waterfront Yard Area requirement:

- Waterfront Yard Area Measurements.** The depth of the Waterfront Yard Area shall be measured perpendicularly from the High Tide Line in the case of bulkheads, rip rap, fill, or shoreline and from the Ends and Sides of Piers. In locating the Waterfront Yard Area, the actual High Tide Line may be smoothed with such curves and chords as may be accessory to achieve a reasonably regular landward boundary. However, in no instance shall the Waterfront Yard Area be narrower than the required dimension measured from the actual High Tide Line. For the limited purpose of applying the Waterfront Yard Area requirements of this Article, a filled area or a structure consisting of both fill and Pier, projecting seaward of the prevailing shoreline, and having the form of a wharf or Pier, shall be treated as Pier.
- Setback Requirements.** No portion of any building or structure (including, without limitation, mechanical facilities associated with a building) shall be located in any Waterfront Yard Area, except walkways, landscape furniture,

guardrails, cleats, bollards, pilings, boat ramps, and other structures (a) which do not materially interfere with pedestrian use of the Waterfront Yard Area or (b) which are required for operational or safety reasons to be located at the water's edge, provided that any resulting interference with pedestrian use of the Waterfront Yard Area is minimized to the extent economically practicable.

3. **Exception to Waterfront Yard Area Setback Requirement.** Any building or structure used for a Water Dependent Use, including without limitation, drydocks, enclosed or covered wet dock sheds, davits, hoists, mast markers, and the structures listed in Subsection 2 above, shall be permitted within the Waterfront Yard Area as necessary to avoid interference with any direct access to the water required for such Water Dependent Use.
4. No portion of any Waterfront Yard Area shall be located on any floating structure.

SECTION 42B-8. Development Review. Notwithstanding any contrary provisions of Section 31-3 and Section 31-4, any Proposed Project within the Harborpark District,

- (a) to erect a building or structure having a gross floor area of ten thousand (10,000) or more square feet;
- (b) to enlarge or erect a building or a structure so as to increase its gross floor area by ten thousand (10,000) square feet or more;

- (c) to establish or change the uses of fifty thousand (50,000) square feet or more of gross floor area; or
- (d) involving the construction, demolition, or alteration of any Pier or the alteration of any shoreline, which construction, demolition, or alteration affects one thousand (1,000) square feet or more of Lot Area

shall be subject to the provisions of Article 31 of this Code, Development Review Requirements, provided that a Proposed Project for an allowed maritime-dependent industrial use located within a maritime economy reserve subdistrict and subject to review by the Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts under the Massachusetts Environmental Protection Act and its implementing regulations shall not be subject to the requirements of Article 31.

1. **Scope of Review.** The scope of review of a Proposed Project within the Harborpark District subject to the provisions of Article 31 shall be as set forth in Section 31-5, modified as set forth below:
 - (a) Only Proposed Projects with a gross floor area of fifty thousand (50,000) or more square feet shall be subject to the Transportation Component provisions of Section 31-6.
 - (b) Notwithstanding any contrary provision of Sections 31-5 through 31-10, review and analysis of a Proposed Project pursuant hereto shall include review and analysis of those additional matters identified in Subsections 2 through 6 of this Section 42B-8 and appropriate design

and mitigation measures may be required by the Boston Redevelopment Authority in connection therewith.

2. **Urban Design Guidelines.** Review and analysis of a Proposed Project pursuant to Section 31-8, Urban Design Component, shall include review and analysis of such Proposed Project in accordance with the urban design guidelines set forth in this Subsection 2. The issuance of an Adequacy Determination by the Boston Redevelopment Authority approving the Applicant's Final Project Impact Report pursuant to Subsection 31-5.6 shall constitute the Boston Redevelopment Authority's determination of compliance with this Subsection 2, subject to any conditions as may expressly be set forth in said Adequacy Determination.
 - (a) New development and rehabilitation shall reinforce the traditional pattern, height, and massing of the urban waterfront.
 - (b) Buildings and spaces shall direct views and pedestrian movements towards the water.
 - (c) Buildings on Piers shall be sited so as to reinforce the geometry of the Pier; and buildings near the water's edge shall not be massed so as to create a continuous wall along the water's edge.
 - (d) Inland buildings shall reinforce the city street pattern and avoid continuous walls parallel to the water's edge by maintaining view and access corridors, especially at cross-streets.

- (e) Buildings shall be sited to provide view and access corridors towards the open water and to preserve views from Public Access Facilities and Open Space areas at the Ends of Piers. Open archways spanning a view corridor, which archways are not less than forty (40) feet wide at grade and forty (40) feet high at the apex and are oriented and designed to preserve the view corridor, as determined through design review, shall not be deemed inconsistent with this design guideline.
- (f) Building elements on a site shall step down in height towards the water's edge.
- (g) Open areas and buildings at or near the Ends of Piers shall offer opportunities for public views of the water and public amenities that attract the public to the water's edge.
- (h) Building massing shall enhance the air flow channels created by sea breezes that are beneficial to air quality in the City.
- (i) Open spaces, building entrances, shopfronts, shop windows, shop entrances, terraces, gardens, arcades, and similar elements shall be designed to enhance pedestrian activity, access to, and enjoyment of the waterfront. Blank walls, without windows or entrances facing onto pedestrian areas, shall be avoided to the extent practicable in building designs.

- (j) Facade treatment, building materials, and design details shall complement the traditional character of Boston's historic waterfront development patterns.
- (k) Setbacks, corner treatments, and other design details shall be used to minimize the sense of bulk of structures and ornament and decorative elements appropriate to the urban and historical waterfront context are encouraged.
- (l) Roofs of buildings shall be designed to minimize the visibility of roof structures and penthouses normally built above the roof and not designed to be used for human occupancy.
- (m) In addition to the foregoing, design features of a Proposed Project shall take into consideration the characteristics of the site and its location in the Harborpark District and provide opportunities for special amenities, such as panoramic views of the Harbor, and shall enhance and reinforce any historic qualities of existing structures. New development shall be consistent with design guidelines established in the Harborpark District Plan.

- 3. **Enhancement of Pedestrian Environment.** Review and analysis of a Proposed Project, pursuant to Section 31-8, Urban Design Component, shall also include review and analysis of the extent to which the Proposed Project promotes and enhances the quality of the pedestrian environment, by means such as: (a) pedestrian pathways connecting to the waterfront and, where

appropriate, linking the waterfront and mass transit stations; (b) spaces accommodating pedestrian activities and public art; (c) use of materials, landscaping, public art, lighting, and furniture that enhance the pedestrian and waterfront environment; (d) pedestrian systems that encourage more trips on foot to replace vehicular trips; (e) other attributes that improve the pedestrian environment and pedestrian access to the waterfront and Boston Harbor; and (f) appropriate management and maintenance of pedestrian access within the Proposed Project.

4. **Tidelands Component.** The Boston Redevelopment Authority shall require in its Scoping Determination issued pursuant to Section 31-5 with respect to any Proposed Project located in Charlestown Waterfront within the Harborpark District and requiring a Chapter 91 License or any Proposed Project located in the Charlestown Navy Yard Subdistrict, an additional development review component to be known as the "Tidelands Component." The Boston Redevelopment Authority shall require the Applicant to include in the Draft Project Impact Report, submitted for the Proposed Project pursuant to Section 31-5.3, an analysis of the Proposed Project together with such plans, drawings and specifications as are necessary for the Boston Redevelopment Authority to determine that the Proposed Project complies with the standards and requirements set forth in Subsections 1 through 12 of Section 42B-5.

SECTION 42B-9. Environmental Protection and Safety Standards for Proposed Projects. Any Proposed Project involving new construction in the Charlestown Waterfront within the Harborpark District shall conform to the

environmental protection and safety standards established in this Section, to the extent economically practicable, as determined in development review pursuant to Section 42B-8.

1. **Trash Disposal Standards.** Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include a trash compactor in an interior location for garbage and trash disposal, and shall provide for the maintenance and cleanliness of such compactor.
2. **Area for Recyclable Materials.** Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include an interior area for the separation, temporary storage, and collection of recyclable materials. Such area shall be located in the vicinity of any off-street loading facility.
3. **Provision of Safety Ladders.** Any such Proposed Project, if adjacent to the water, shall provide a safety ladder or ladders extending from the water to an accessible area above the high water mark such that there shall be one safety ladder located approximately every one hundred (100) feet along those portions of the waterfront occupied by seawalls, piers, wharves, or other structures otherwise inaccessible to a person in the water. The foregoing notwithstanding, a safety ladder shall not be required in a location that would unreasonably interfere with docking facilities or other Water Dependent Use, provided that safety ladders are placed at intervals most closely approximating one hundred (100) feet and not so interfering.

SECTION 42B-10. Off-Street Parking. The provisions of Article 23, Off-Street Parking, shall govern any Proposed Project in the Charlestown Waterfront within the Harborpark District, except in the Charlestown Navy Yard Subdistrict. The off-street parking requirements stated as applicable to a specific floor area ratio set forth in Table B of Section 13-1 shall also apply to the same floor area ratio set forth in this Article. Where a use provided for in this Article is not included in any use item number listed in Article 23, off-street parking facilities shall be provided in accordance with the requirements for the use item number listed in Article 23 which is most similar to such use.

1. Notwithstanding any contrary provision of Article 23, the following supplementary regulations shall be applicable in the Harborpark District, excluding the Charlestown Navy Yard Subdistrict:
 - (a) Off-street parking shall be provided for single family dwellings, two-family dwellings, and multi-family dwellings at a rate of not less than 1.0 space per dwelling unit.
 - (b) Off-street parking shall be provided for a Recreational Marina at a rate of not less than one (1) off-street parking space for every eight (8) docking spaces.
 - (c) Off-street parking shall be provided for slips and docking spaces for Commercial Vessels as follows:
 - (i) For each slip or docking space for a Commercial Vessel which neither takes on nor discharges passengers at such slip or docking space, other than crew members, two (2) off-street parking spaces shall be provided.

- (ii) For each slip or docking space for a Commercial Vessel which takes on or discharges passengers for sightseeing, exhibits, special events, dining, dancing, or other public assembly activity, off-street parking spaces shall be provided in accordance with Section 23-2.
- (d) All off-street parking areas shall be located, designed, and maintained in accordance with Sections 23-8, 23-9, and 23-10. Subject to the provisions of Article 6, the Board of Appeal may approve a decrease up to fifty percent (50%) of the number of off-street parking spaces required by this section, provided that: (a) the Applicant reserves a site area sufficient to accommodate the unsatisfied requirement for the possible future expansion or peak seasonal usage of said off-street parking spaces; (b) any permit granted pursuant to this subsection shall be for a period not to exceed five (5) years, and shall be renewable in accordance with the provisions of Article 6; and (c) the Applicant provides for said area an environmentally suitable, permanent ground cover of pervious material. Such area shall not be used or built upon and shall be maintained as open space. However, such area may be developed for parking use in the future in accordance with the provisions of this section.
- (e) For any Proposed Project subject to the development review requirements set forth in Section 42B-8 and for which a Transportation Access Plan is required, the Boston Redevelopment Authority may

determine that so-called "shared parking" arrangements, in which parking spaces may be counted for different uses whose peak parking use periods are not coincident, will adequately meet parking demand associated with such Proposed Project, in which event the number of parking spaces otherwise required shall be correspondingly reduced.

- (f) No Proposed Project shall be required to provide parking in excess of that permitted under any applicable state or federal parking freeze or similar law.
- (g) No parking shall be permitted in any Public Access Facility provided pursuant to the provisions of Section 42B-5.2.

SECTION 42B-11. Off-Street Loading. Within the Charlestown Waterfront within the Harborpark District, no off-street loading facilities shall be required for any Proposed Project with a gross floor area of less than 10,000 square feet. For any Proposed Project with a gross floor area of 10,000 square feet or more, the Applicant shall include in its Project Impact Report, prepared in accordance with Section 31-5, an analysis of the loading requirements of the Proposed Project, and of the impacts (as described in Sections 31-6 through 31-9) of projected loading activities, together with a description of any off-street loading facilities required to meet those requirements and to mitigate, to the extent economically practicable, projected impacts, and the Boston Redevelopment Authority shall determine the adequacy of such proposed loading facilities in accordance with the provisions of Article 31.

REGULATIONS APPLICABLE IN THE CHARLESTOWN WATERFRONT

SECTION 42B-12. Charlestown Navy Yard Subdistrict. This section establishes the Charlestown Navy Yard Subdistrict, as depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto. The Charlestown Navy Yard Subdistrict includes: the New Development Area (including Parcel 4, Parcel 4A, Parcel 5, Parcel 6B, Parcel 6C, and Parcel 7); and Pier 5, Pier 6, Pier 7, Pier 8, and Pier 9; and Buildings 103, 104, 40, 42, and 197; the Historic Monument Area; the National Park; and Shipyard Park. The following provisions shall be applicable within the Charlestown Navy Yard Subdistrict:

- 1. New Development Area; Density.** Because of the absence of conventional parcels of land and the policy of guiding development in the New Development Area in accordance with the Charlestown Navy Yard Master Plan, building density in the New Development Area shall be regulated through limitations on gross floor area. The Department of Inspectional Services shall not issue a certificate of occupancy with respect to a Proposed Project or portion thereof in the New Development Area unless the Boston Redevelopment Authority shall certify that such issuance shall not cause any of the following occupancy limitations to be exceeded. The total occupancy allowed prior to January 1, 1994 for each location indicated in Table D of this Article shall be the gross floor area of buildings in such location in existence as of the effective date of this Article plus the additional gross floor area for such location indicated in the column headed "Maximum Net New Occupancy Allowed before January 1, 1994." The total occupancy allowed after January 1, 1994 for each location indicated in Table D shall be the total occupancy allowed for such location prior to January 1,

Additional Net New Occupancy Allowed After January 1, 1984:

TABLE D**Occupancy Limits* for New Development Area**

<u>Location</u>	<u>Maximum Net New Occupancy* Allowed Before January 1, 1994 (square feet of gross floor area)</u>	<u>Maximum Additional Net Occupancy* Allowed After January 1, 1994 (square feet of gross floor area)</u>
1. New Development		
(a) Parcels 4 and 4A	390,000	0
(b) Parcel 5	275,000	0
(c) Parcels 6B, 6C, and 7	550,000	550,000
(d) Piers 5, 6, 7, 8, and 9		
(e) Building 40, 42, 103, 104, and 197	144,000	

- * Excluding Marina Amenity Uses, Local Retail/Service Uses, General Retail Uses, Restaurant Uses, Community Uses and Cultural Facilities, and Water Dependent Facilities of Public Accommodation, as those uses are further described in Section 42B-18.6, located on the first and second stories of buildings and excluding parking facilities above and below grade.

2. **New Development Area; Building Height.** The maximum allowed Building Heights for each portion of the New Development Area shall be as set forth in Table E of this Article.

TABLE E**Maximum Allowed Building Heights
in the New Development Area**

<u>Location</u>	<u>Maximum Allowed Building Height</u>
(a) Parcel 4	90'
(b) Parcel 4A	155'
(c) Parcel 5	110'
(d) Parcels 6B and 7	155'
(e) Parcel 6C	125'
(f) Pier 5	55'/75'*
(g) Pier 6	35'
(h) Pier 7	55'/75'*
(i) Pier 8	35'
(j) Pier 9	35'
(k) Building 40, 42, 103, 104, 197	75'

* For the portion of the Pier within one hundred fifty (150) feet of the End of the Pier, the maximum permitted Building Height is fifty-five (55) feet. Elsewhere on the Pier or landward of the High Tide Line the maximum Permitted Building Height is seventy-five (75) feet.

3. New Development Area; Special Waterfront Yard Area Setback.

Notwithstanding any contrary provision of Section 42B-7, the depth of the required Waterfront Yard Area setback from the High Tide Line along the northeastern edge of Parcel 5 shall be not less than sixty-five (65) feet and shall average seventy-five (75) feet. Structures and facilities within said Waterfront Yard Area shall provide for and be compatible with docking along said edge by large Vessels, including naval and oceanographic research Vessels.

4. Historic Monument Area; Prohibition on Creation of Passageways through Building 58 (the Ropewalk). Any Proposed Project to create passageways through Building 58 (the Ropewalk) is hereby prohibited.

5. **Historical Monument Area and National Historical Park Area. (Special Study Areas 1 and 2).** In Special Study Areas 1 and 2, as shown on the attached zoning map, the existing zoning will continue to govern for any Proposed Project in said areas. Within Special Study Areas 1 and 2, all projects must fully comply with all applicable provisions of Section 106 of the National Historical Preservation Act and must also comply with all relevant transfer documents relating to said Study Areas. No development can proceed in the Historical Monument Area as shown on the map in Appendix A-2 without a determination by the Department of Interior or its designated agency that there is no adverse effect created by said development. In addition, in the National Historical Park Area shown as Special Study Area 1 all determinations regarding the uses and controls will continue under the complete jurisdiction of the National Park Service. No change in the Master Plan or the Zoning Code, as they govern the Historical Monument Area and the National Historical Park, shall be made until completion of said Section 106 process; and any such change must be in compliance with all applicable provisions of Section 106 of the National Historical Preservation Act and must also comply with all relevant transfer documents relating to said Study Areas.

SECTION 42B-13. Charlestown Gateway Subdistrict. This Section establishes the Charlestown Gateway Subdistrict, as depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown). The Charlestown Gateway Subdistrict includes the Tudor Wharf Area and the Hoosac Wharf Area, as depicted on said Map 2B. Within the Tudor Wharf Area, the maximum allowed FAR is three (3). The maximum allowed Building Height is seventy-five (75) feet landward of the

High Tide Line and fifty-five (55) feet on Piers. Within the Hoosac Wharf Area the maximum allowed FAR is two (2) and the maximum allowed Building Height is fifty-five (55) feet. Review and analysis of a Proposed Project located in the Charlestown Gateway Subdistrict and subject to development review pursuant to Section 42B-8 shall include review and analysis of the extent to which the building siting and massing of the Proposed Project take account of significant views of historic landmarks and topographic features as seen from the water and preserve and enhance such views to the extent reasonably practicable.

SECTION 42B-14. Working Waterfront Subdistricts. This Section establishes five (5) working waterfront subdistricts within the Charlestown Waterfront. The working waterfront subdistricts are established in order to maintain, foster, and promote the maritime economy within the City of Boston; to provide for light manufacturing water-dependent uses; to preserve sites for maritime-dependent industrial uses along the waterfront consistent with applicable state policy and the needs of the maritime industry; to create opportunities for manufacturing and business on the waterfront; to promote land development that will protect the public health and general welfare; and to maintain a safe and healthy environment.

1. **Charlestown Maritime Economy Reserve Subdistrict.** Within that portion of the Charlestown Waterfront depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown and Appendix A hereto as the "Charlestown Maritime Economy Reserve Subdistrict", a maximum Building Height of fifty-five (55) feet (except for cranes, silos, storage facilities or other mechanical devices or facilities used for transfer of goods from land to waterborne vessels or for processing of such goods) and a maximum FAR of

two (2) are allowed, and the regulations of this Code for MER-2-55 subdistricts are applicable.

2. **Mystic River Waterfront Manufacturing Subdistrict.** Within that portion of the Charlestown District depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto as the "Mystic River Waterfront Manufacturing Subdistrict", a maximum Building Height of fifty-five (55) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a maximum FAR of two (2) are allowed, and the regulations of this Code for WM-2-55 subdistricts are applicable.
3. **Terminal Street Waterfront Manufacturing Subdistrict.** Within that portion of the Charlestown District depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto as the "Terminal Street Waterfront Manufacturing Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a maximum FAR of two (2) are allowed and the regulations of this Code for WM-2-55 subdistricts are applicable, except that office uses described in Subsection 43-2.6(f) shall be allowed uses within any building existing as of the effective date of this Article.
4. **Charlestown General Industrial Subdistrict.** Within that portion of the Charlestown Waterfront depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto as the

"Charlestown General Industrial Subdistrict", a maximum Building Height of sixty-five (65) feet and a maximum FAR of two (2) is allowed and the regulations of this Code for I-2-65 subdistricts are applicable.

5. **Little Mystic Waterfront Service Subdistrict.** Within that portion of the Charlestown Waterfront depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto as the "Little Mystic Waterfront Services Subdistrict," a maximum Building Height of forty-five (45) feet and a maximum FAR of one (1) are allowed, and the regulations of this Code for WS-1-45 subdistricts are applicable. Also, within the Little Mystic Waterfront Services Subdistrict, parking is permitted provided that it is located a minimum of twenty (20) feet from the High Tide Line, with a minimum of twelve (12) feet from the High Tide Line reserved for Public Access Facilities and a minimum of eight (8) feet reserved for vegetative buffering.

SECTION 42B-15. Waterfront Residential Subdistrict. This section establishes one waterfront residential subdistrict. The waterfront residential subdistrict is established in order to provide for residential uses on the waterfront.

1. **Little Mystic Waterfront Residential Subdistrict.** Within that portion of the Charlestown Waterfront depicted on Map 2B Harborpark District (supplemental to Map 2 Charlestown) and Appendix A hereto as the "Little Mystic Waterfront Residential Subdistrict," a maximum Building Height of forty-five (45) feet and a maximum FAR of one (1) are allowed, and the regulations of this Code for H-1-45 subdistricts are applicable.

SECTION 42B-16. Open Space Subdistricts. This section establishes the five open space subdistricts within the Charlestown Waterfront which subdistricts are identified in Table F of this Article and shown on Map 2B Harborpark District (supplemental to Map 2 Charlestown) of this Code and on Appendix A hereto. Any Lot within any such open space subdistrict is subject to Article 33, Open Space Subdistricts, and other provisions of this Code applicable to such subdistrict. One such subdistrict, the Charlestown Navy Yard Shipyard Park Area, is included within the Charlestown Navy Yard Subdistrict. A non-profit sailing center or other public recreational facility operated by a non-profit organization shall be deemed to be compatible with the recreational uses of the Shipyard Park Area.

TABLE F

Open Space Subdistricts in the Charlestown Waterfront

<u>Location</u>	<u>Subdistrict Designation</u>
Shipyard Park	Recreation**
J.J. Ryan Playground	Recreation**
Little Mystic Waterfront Access	Waterfront Access***
William J. Barry Playground	Recreation**
Paul Revere Landing	Parkland*

* Parkland open space subdistricts consist of land appropriate for and limited to passive recreational uses. See Section 33-9.

** Recreation open space subdistricts consist of land appropriate for and limited to active or passive recreational uses. See Section 33-10.

*** Waterfront access open space subdistricts consist of land which abuts or lies under waters of the Commonwealth within the jurisdiction of the City. See Section 33-13.

SECTION 42B-17. Rooftop Additions. No roof structure designed or used for human occupancy, access, or storage, and no roof structure, headhouse, or

mechanical equipment normally built above the roof and not designed or used for human occupancy, shall be erected or enlarged on the roof of an existing building within the Charlestown Navy Yard Subdistrict and the Charlestown Gateway Subdistrict unless after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 the Board of Appeal grants permission therefor. In reaching its decision, said Board shall consider whether such roof structure is architecturally consistent with the distinctive historical and architectural character of the area. The Inspectional Services Department shall transmit a copy of the appeal for the conditional use to the Boston Landmarks Commission. The Boston Landmarks Commission may, within thirty days after the date of such transmittal, file with the Board of Appeal a recommendation, provided that if no such recommendation is received within said thirty days, the Board of Appeal may render its decision without such recommendation.

SECTION 42B-18. Use Regulations Applicable in the Charlestown Navy Yard Subdistrict New Development Area and the Charlestown Gateway Subdistrict. No land (including Tidelands and submerged land) water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, within the Charlestown Navy Yard Subdistrict New Development Area, or the Charlestown Gateway Subdistrict, except in conformity with the provisions of this Section and Section 8-6.

1. **Inclusion of Daycare Facilities.** The provisions of this Subsection 1 apply only to Proposed Projects in the Charlestown Navy Yard Subdistrict New Development Area or the Charlestown Gateway Subdistrict that exceed a building height of fifty-five (55) feet. Any such Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses,

Hotel Uses, or Cultural Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to at least the amount listed below in Table G of this Section.

An Applicant for a Proposed Project subject to the provisions of this Subsection 1 may fulfill its obligations under this paragraph by either (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created, in the vicinity of the Proposed Project within the Charlestown Waterfront or Charlestown neighborhood; provided that any Proposed Project subject to the provisions of this Section shall devote to day care facilities located on-site an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this Subsection 1 shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours. Such day care facilities provided as part of a Proposed Project shall not be included in the calculation of FARs or, in the Charlestown Navy Yard Subdistrict New Development Area, gross floor area for the purposes of Subsection 42B-__ for the Proposed Project.

TABLE G

Provision of Day Care Facilities

<u>Size of Proposed Project (Gross Floor Area)</u>	<u>Minimum Day Care Facilities (Gross Floor Area)</u>
100,000 up to 200,000 sq.ft.	2% of gross floor area
200,000 up to 500,000 sq.ft.	4,000 sq.ft.
500,000 up to 1,000,000 sq.ft.	8,000 sq.ft.
More than 1,000,000 sq.ft.	12,000 sq.ft.

* Excluding floor area devoted to Residential, Hotel Uses, or Cultural Uses.

2. **Facilities of Public Accommodation.** Within any Proposed Project in the Charlestown Gateway Subdistrict with a gross floor area of 10,000 square feet or greater, involving new construction or a change of use on the first story, the use of at least forty percent (40%) of the gross floor area of the first story of such Proposed Project shall be for indoor Facilities of Public Accommodation otherwise allowed for such Proposed Project or conditional and permitted pursuant to Article 6.

3. **Buildings 40, 42, 103, 104, and 197.** Notwithstanding any other provision of this Section 42B-18 to the contrary, within the Charlestown Navy Yard Housing Priority Area, for any Proposed Project a minimum of two (2) square feet of gross floor area shall be devoted to allowed Residential Uses for each square foot of gross floor area not devoted to such Residential Uses. An Applicant for any Proposed Project subject to the provisions of this paragraph may construct or rehabilitate space for allowed Residential Uses within the Charlestown Navy Yard Housing Priority Area, and aggregate the space for allowed Residential Uses and the space for other uses from different Proposed Projects of the Applicant's within the Charlestown Navy Yard Housing Priority Area to meet the ratio provided in this paragraph so

as the different Proposed Projects are completed within any consecutive period of twenty-four months.

4. **Special Use Restrictions on Parcels 4, 4A, 5, 6B, 6C, and 7, and Piers 5, 6, 7, 8, and 9.** Notwithstanding any contrary provision of Subsection 6 of this Section 42B-18, within each portion of the New Development Area identified in Table H of this Article, allowed uses are limited to (a) those uses specified in Table H (and further described in Subsection 5 of this Article 42B-18) for such portion, and (b) Accessory and Ancillary Uses as further described in said Subsection 5) except that:
 - (x) Open Space Recreational Uses and Parking Uses and, on the first and second story only, Local Retail/Service Uses, General Retail Uses, Restaurant Uses, and Community Uses and Cultural Facilities, as those uses are further described in Subsection 5 of this Section 42B-18, are also allowed uses. On Parcel 6C, is the site of Building 75 or of Research Center Uses, the first floor of any building on Parcel 6C shall be devoted to Local/Service Uses, General Retail Uses, Restaurant Uses, Community Uses, and Cultural Facilities, exclusive of lobby and circulation areas. For each portion of the Piers 5, 6, 7, 8, and 9 referenced in Table H, all uses described in Subsections 5 and 6 of this Section 42B-18, but not identified as allowed uses in this Subsection 4 shall be conditional uses for such portion, subject to the provisions of Article 6. For the purposes of this Subsection 4 and Table H, "Marina Amenity Uses" means Open Space Recreational Uses, Water-Related Uses, water-dependent recreational facilities, recreational marinas, Boat Rental Establishments, yacht clubs, navigation aids, marine police and

fire stations, other marine, public safety and law enforcement facilities, Local Retail/Service Uses, General Retail Uses, Restaurant Uses, and Community Uses and Cultural Facilities, as those uses are further described in Subsection 5 of this Section 42B-18; and

- (y) No less than 600,000 gross square feet of the total 1,100,000 gross square feet allowed on Parcels 6B, 6C and 7 shall be designed and constructed for Research Center Uses and uses accessory thereto. No more than 500,000 gross square feet of such total 1,100,000 gross square feet shall be designed and constructed for Office Uses and uses accessory thereto. Any space designed and constructed for Office Uses additional to such 500,000 gross square feet shall be conditionally permitted only, subject to the provisions of Article 6. The Building Commissioner shall not issue any building permit with respect to any new building on Parcels 6B, 6C, and 7 unless the Director of the Boston Redevelopment Authority has certified on the application therefor and on each and every plan filed with the Building Commissioner in connection therewith that the same is consistent with the provisions of this paragraph regarding the design and construction on such Parcels. Each Proposed Project in the New Development Area for more than fifty thousand (50,000) gross square feet shall comply with the transportation access planning requirements of Section 31-5; provided that any one or more of such Proposed Projects may coordinate the submission of any required transportation access plan. Any Proposed Project for a use which is not allowed in the New Development Area as set forth in Table H or as allowed in this

subsection shall require an amendment to the Charlestown Navy Yard Master Plan. Prior to its approval of any such amendment, the Boston Redevelopment Authority shall transmit copies of the proposed amendment to the Charlestown Neighborhood Council and the Harborpark Advisory Council, or any successor neighborhood organization, and to the appropriate agencies with jurisdiction over issues of Historic Preservation relating to the Charlestown Navy Yard. The Boston Redevelopment Authority shall review comments and recommendations from the general public, neighborhood and community organizations, and public agencies before it renders a decision on a proposed amendment to the Charlestown Navy Yard Master Plan.

TABLE H

**Special Use Restrictions Applicable in the
New Development Area**

<u>Location</u>	<u>Allowed Uses</u>
(a) Pier 5	Residential Uses, Marina Amenity Uses
(b) Pier 6	Marina Amenity Uses
(c) Pier 7	Residential Uses, Marina Amenity Uses
(d) Pier 8	Marina Amenity Uses
(e) Pier 9	Marina Amenity Uses
(f) Parcels 4 and 4A	Hotel Uses*, Marina Amenity Uses
(g) Parcel 5	Aquarium Use*, Marina Amenity Uses
(h) Parcels 6B, 6C and 7	Research Center Uses, Office Uses
(i) Buildings 40, 42, 103, 104, and 197	Residential Uses**

* If a building permit for substantial construction of an aquarium on Parcel 5 has not been issued by January 1, 1993, then residential uses as described in Subsection 5(d)(i) of this Section are allowed on Parcels 4, 4A, and 5. The affordability standard set forth in Subsections 42B-5.4 and 42B-5.5 will continue to apply.

** See Section 42B-18.3.

5. **Allowed Uses.** Within the Charlestown Gateway Subdistrict and Charlestown Navy Yard Subdistrict New Development Area, except as otherwise provided in this Section 42B-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except in accordance with the provisions of this Subsection 5 and Subsection 6 of this Section 42B-18.

Any use specified in this Subsection 6 is allowed as a matter of right, subject only to the requirements set forth in the description of such use below:

(a) Water-Dependent and Water Related Uses.

(i) Water-Dependent Uses.

Dock, slip, pier, wharf, anchorage, or moorage for Commercial Vessels and Recreational Vessels awaiting servicing, provisions, on or off loading of people or cargo at delivery;
Water-dependent recreational facility, Recreational Marina, facilities for the use, hire or charter of Commercial vessels, Boat Rental Establishment, recreational sailing or boating school, yacht club;
Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;
Aquarium, including uses reasonably appurtenant thereto such as gift shop, laboratory space, classrooms, restaurant, and floor service uses, office space, conference facilities, meeting rooms;
Other cultural, educational, research, or training facilities dedicated primarily to marine purposes;
Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis (except that a ferry or cruise boat terminal is forbidden in the North End Waterfront Subdistrict);
Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;
Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, wave deflectors, and the like.

(ii) Water-Related Uses. Installation, repair, or servicing of boating accessories, marine equipment, marine instruments, or marine motors;
Chandlery, woodworking shop, electrical shop, or similar use for the repair and maintenance of Vessels;
Sale of marine hardware, or boating or diving supplies and equipment.

(b) Open Space Recreational Uses

Open space for active or passive recreational use or dedicated to the conservation of natural resources, including but not limited to the waterways areas, beaches, reservations, parks, and playgrounds; non-profit sailing center or other public recreational facility operated by a non-profit organization.

(c) Community Uses and Cultural Facilities

Library, museum, gallery, concert hall, legitimate theater, auditorium, performance space, aquarium, or historical exhibit open to public generally;

Community center or community service facility;

Day care center.

(d) Residential Uses

(i) Building or group of buildings for occupancy by three or more families in separate dwelling units;

(ii) Limited group care residence, convalescent, nursing, or rest home.

(e) Hotel Uses

Hotel, conference and meeting facilities, restaurant, lounge, bar, store primarily serving the retail needs of hotel, conference, and meeting guests, health club, swimming pool, parking garage, storage and office use accessory to hotel use.

(f) Office Uses

Office of professional persons, not accessory to a main use; Real estate, insurance, financial service institution, or other agency or government office;

Office or display or sales space of a wholesale, jobbing, or distributing house, provided that the office or display or sales space of a wholesale, jobbing, or distributing house is associated with a Water Dependent Use;

Office building, post office, bank (other than drive-in bank) or similar establishments.

(g) Research Center Uses

Laboratories and facilities for teaching and for theoretical, basic, and applied research, product development and testing, prototype fabrication, or production of experimental products; the keeping of marine life or laboratory animals incidental to a research or development use; storage and office use accessory to a research or development Use; parking garage, day care center.

Design, development, manufacture, compounding, packaging, processing, fabrication, altering, assembly, repair, servicing, renting, testing, handling, or transfer of products as would be included in Research and Development Uses, consistent with the provisions of Subsection 36-4.1; storage and office use, accessory to a light manufacturing use, parking garage, day care center.

(h) Local Retail/Service Uses

Store primarily serving the local retail business or service needs of the neighborhood and harbor/waterfront users, including but not limited to chandlery, barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or drycleaner, tailor shop, hand laundry;

Store retailing one or more of the following but not limited to: food, baked goods, groceries, drugs, tobacco products, clothing, drygoods, books, film, video, art, flowers, paint, hardware, and minor household appliances.

(i) General Retail Uses

Department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage;

(j) Restaurant Uses

Lunchroom, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafes;

Place for sale and consumption of food and beverages (other than drive-in restaurants) providing dancing or entertainment or both; Pushcart food vendors.

(k) Educational Uses

Marine research and/or training institute for educational institution provided that water access is required for the program or its operation.

(l) Public Service Uses

Public service pumping station, public service substation, automatic telephone exchange, fire station, police station;

Flood, water level, or tidal control facility; cable conduit, pipeline crossing, stormwater outlet, or other similar utility structure.

(m) Transportation Uses

Public transportation facility, bus station, trolley station.

(n) Parking Uses

Parking garage or parking lot.

(o) Accessory and Ancillary Uses

Any of the following uses accessory or ancillary to an allowed use, subject to the limitations and restrictions of Article 10:

- (i) any use accessory or ancillary to, and ordinarily incident to, a lawful main use; provided that such use is not specifically forbidden in such district; and provided further that any such use shall be subject to the same restrictions, conditions, limitations, provisos and safeguards as the use to which it is accessory.
- (ii) an office, within a main building, of an accountant, architect, attorney, dentist, physician or other professional person who resides in such building.
- (iii) an occupation for profit customarily carried on in a dwelling unit by a person residing therein provided that such occupation is carried on in a main building and requires only equipment ordinarily incident to a dwelling unit and that no non-resident help is employed and that there is not trading in merchandise.
- (iv) the keeping of marine life or laboratory animals incidental to a lawful education, research center uses, aquarium, or institutional use.
- (v) as accessory uses to hotel uses, restaurants uses, conference facilities, retail and service establishments serving guests and visitors and other uses incidental to the operation of a hotel;
- (vi) as accessory uses to research center uses; restaurant, office and other uses incidental to the operation of such research center uses;
- (vii) the storage of flammable liquids and gases incidental to a lawful use.
- (viii) permanent dwellings for personnel required to be resident on a Lot for the safe and proper operation of a lawful main use.
- (ix) day care center.
- (x) health club facility, tennis court, swimming pool.

6. **Conditional Uses.** Within the Charlestown Gateway Subdistrict and Charlestown Navy Yard Subdistricts New Development Area, except as

otherwise provided in this Section 42B-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use under the provisions of Article 6 unless such use is specified in this Subsection 6.

(a) Open Space Recreational Uses

Recreational building (other than a non-profit sailing center or other public recreational facility operated by a non-profit organization) on an Open Space area that is necessary and/or appropriate to the enhanced enjoyment of the particular Open Space area and is open to the public.

(b) Take-out Restaurant

In a structure, sale over the counter, not wholly incidental to a local retail business or restaurant use, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption; if, as so sold, such food or drink is ready for take-out.

7. **Forbidden Uses.** Any use not specified as an allowed or conditional use in this Section 42B-18, except for such non-conforming uses as may be allowed to continue under the provisions of Article 9, shall be forbidden uses in the Charlestown Gateway Subdistricts and Charlestown Navy Yard Subdistrict New Development Area. Without limitation, uses described in Use Items 34A and 38A of Table A of Section 8-7 shall be forbidden uses in the said subdistricts. In addition, and notwithstanding any contrary provision hereof, any use of a floating structure, other than for a Water Dependent Use, shall be forbidden in the said subdistricts.

MISCELLANEOUS PROVISIONS

SECTION 42B-19. Regulations. The Boston Redevelopment Authority may promulgate regulations to administer this article.

SECTION 42B-20. Rights to Navigation. No provision of this code shall be construed as a limitation upon the navigational rights of vessels or upon the regulation thereof by the United States.

SECTION 42B-21. Severability. The provisions and requirements of this article are severable, and if any such requirements or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision or requirement of this article.

SECTION 42B-22. Appendices. The following appendices are attached to and are hereby made part of this article:

1. Appendix A - Harborpark District
2. Appendix B - Definitions
3. Appendix C - Water Dependent Uses

APPENDIX B

Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Adjusted Income" is defined as it is in 24 CFR 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42B-5.3, 42B-5.4, or 42B-5.5.
2. "Affordable" means, in the case of an owner-occupied dwelling unit, requiring the expenditure by a Low-Income, Moderate-Income or Upper Moderate Income Household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty percent (30%) of its Adjusted Income to occupy the unit, and, in the case of a renter-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household or Upper-Moderate Income Household for rent payments of not more than thirty percent (30%) of its Adjusted Income to occupy the unit.
3. "Annual Income" is defined as it is in 24 CFR 813.106, as amended, or as set forth in regulations adopted in accordance with Subsections 42B-5.3, 42B-5.4, or 42B-5.5.
4. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 42-4, or the authorized agent of any such person or entity.
5. "Boat Rental Establishment" means any use or establishment that involves the renting, hiring, or instruction in the use of any sailboat, rowboat, or other Recreational Vessel that does not require an operator's license by the United States Coast Guard or the conferring of seasonal use privileges in a fleet of such Recreational Vessels.
6. "Building Height," notwithstanding the provisions of clause 23 of Subsection 2-1, means (a) for a flat roof, the vertical distance from the grade to the top of the highest point of the roof beams of a flat roof, excluding mechanical roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, and (b) for a pitched roof, the vertical distance from grade to the lower (i) of the mean level of the highest gable or of the slope of a hip roof or (ii) of the top of the habitable space of a structure. A mansard roof shall be considered a flat roof. For Piers, grade shall be measured from the top of the deck of the Pier. The foregoing notwithstanding, except within the Downtown Waterfront Subdistrict, the North End Waterfront Subdistrict, the Charlestown Gateway Subdistrict, and the Charlestown Navy Yard Subdistrict, mechanical roof structures and penthouses normally built above the roof and not used or designed for human occupancy shall not be excluded in calculating Building Heights if such structures and penthouses, in the

aggregate, occupy more than thirty-three and one-third (33 1/3%) of the roof area.

7. "Bulkhead" means a vertical structure used to create an edge between the land and the water against which Vessels can be placed to unload or engage in other activities.
8. "Chapter 91" means M.G.L. Chapter 91 and implementing regulations, codified as of the effective date of this article at 310 C.M.R. 9.00, as said statute and regulations may, from time to time, be amended.
9. "Charlestown Navy Yard Master Plan" means that certain master plan of the Charlestown Navy Yard adopted by the Boston Redevelopment Authority on _____, 1990.
10. "Charlestown Waterfront" means the Charlestown Navy Yard Subdistrict, Charlestown Gateway Subdistrict, Charlestown Maritime Economy Reserve Subdistrict, Mystic River Waterfront Manufacturing Subdistrict, Terminal Street Waterfront Manufacturing Subdistrict, Little Mystic Waterfront Service Subdistrict, Charlestown General Industrial Subdistrict, Little Mystic Waterfront Residential Subdistrict, Paul Revere Landing Open Space Subdistrict, Little Mystic Waterfront Access Open Space Subdistrict, William J. Barry Playground Open Space Subdistrict, and J.J. Ryan Playground Open Space Subdistrict.
11. "Commonwealth Tidelands" means:
 - (a) Tidelands to which title is held by the Commonwealth or by its political subdivisions or a quasi-public agency or authority; such Tidelands include all Tidelands lying seaward of any location where title to such Tidelands is not held by a private person; and
 - (b) Tidelands to which title is held by a private person by license or grant of the Commonwealth, provided such Tidelands lie seaward of the Natural Low Tide Line or of a line running 100 rods (1,650 feet) seaward of the Natural High Tide Line, whichever is farther landward, and provided further that such Tidelands have not been demonstrated by the owner to be unconditionally free of any proprietary interest in the Commonwealth, pursuant to a final judgment of a court of the Commonwealth.

The foregoing definition is intended to be consistent with draft regulations implementing Chapter 91 issued by the Department of Environmental Protection of the Commonwealth of Massachusetts, dated July 18, 1989. In the event that such regulations, as ultimately promulgated, reflect a definition of such term different from the foregoing, the foregoing shall be deemed modified accordingly.

12. "Cultural Uses" means use for legitimate theater, concert hall, auditorium, museum, gallery, performance space, aquarium, or historical exhibit.

13. "Dorchester Bay/Neponset River Waterfront" means the Clam Point Waterfront Service Subdistrict, the Neponset River Waterfront Service Subdistrict, the Cedar Grove Waterfront Manufacturing Subdistrict, the Neponset River Waterfront Manufacturing Subdistrict, the South Boston Maritime Economy Reserve Subdistrict, the Cedar Grove General Business Subdistrict, the Neponset River Residential Subdistrict, the Cedar Grove Residential Subdistrict, the Savin Hill Open Space Subdistrict, the Victory Park Open Space Subdistrict, the Neponset Shoreland Open Space Subdistrict, the Lower Mills Shoreland Open Space Subdistrict, the Castle Island Columbus Park Open Space Subdistrict, and the subdistricts included in the Columbia Point Special Study Overlay Area.
14. "End" of a Pier means the edge of the Pier that is most nearly opposite the edge connecting the Pier with dry land and most nearly parallel to the 1880 Harbor Line or, if the 1880 Harbor Line is not applicable, the general direction of the shoreline.
15. "Existing Pier" means a Pier existing as of the date of the first notice of hearing for the adoption of this Article before the Zoning Commission. However, within the Downtown Waterfront Subdistrict and the North End Waterfront Subdistrict an "Existing Pier" means a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existed as of the effective date of this Article. Within the Downtown Waterfront Subdistrict, an Existing Pier shall also mean a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existing in 1938 as depicted in the Atlas of the City of Boston: Boston Proper and Back Bay, (Philadelphia: G.W. Bromley and Co., 1939).
16. "Facility of Public Accommodation" means a use so described in Appendix C.
17. "FAR" means floor area ratio, as defined in Section 2-1, subject to the provisions of Section 15-1 regarding calculation of the area of the Lot.
18. "Filled Tidelands" means former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill.
19. "Flowed Tidelands" means present submerged lands and tidal flats which are subject to tidal action at the time of license application under Chapter 91.
20. "Harborpark District" means the area defined in Section 42B-3.
21. "Harborpark District Plan" means the plan of the same name adopted or to be adopted by the Boston Redevelopment Authority.
22. "High/Low Tide Line" means the present arithmetic mean of the water heights observed at high tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) and shall be determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce.

23. "Index" means Consumer Price Index for all Urban Consumers, Boston, MA, all items - Series A (1982-84 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor or, in the event such Consumer Price Index ceases to be published by the United States Department of Labor, a similar published index measuring consumer price levels in the Boston Metropolitan Area, as designated by the Boston Redevelopment Authority.
24. "Lot", notwithstanding the provisions of clause 26 of Subsection 2-1, means a parcel of land, including land under water (a) whether or not platted, (b) in common control and combined for a single Proposed Project or in single ownership, and (c) not divided by a street.
25. "Lot Area", notwithstanding the provisions of clause 27 of Subsection 2-1, means the horizontal area of the Lot exclusive (a) of any area in a street, (b) of any area in a private way devoted to public use by motor vehicles, (c) of any fresh water area more than ten (10) feet from the shoreline, and (d) of any salt water area below the High Tide Line. The foregoing notwithstanding, (x) the horizontal area of any Pier located in the Lot and (y) a private way open to vehicles for the purpose of accessing the Lot only and a street or private way open only to pedestrians and emergency vehicles shall be included in the Lot Area. Further, if a Proposed Project shall result in a net reduction in the horizontal area of Piers on the Lot, then Lot Area shall be computed on the basis of the horizontal area of said Piers as of the commencement of the Proposed Project.
26. "Low-Income Household" means any household whose Annual Income does not exceed 50% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.
27. "Main Shipping Channel" means the shipping channel for deep draft vessels in the Boston Inner Harbor as depicted by dashed lines on that certain chart issued by National Oceanic and Atmospheric Administration as chart number 13272 and entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.
28. "Marina Amenity Uses" means those uses as identified in Subsection 42B-25.5.
29. "Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR Section 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42B-5.3, 42B-5.4, and 42B-5-5.
30. "Moderate-Income Household" means any household whose Annual Income does not exceed 80% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.
31. "Municipal Harbor Plan" means the principal harbor plan contemplated in draft regulations implementing Chapter 91 issued by the Department of Environmental Protection of the Commonwealth of Massachusetts, dated July 18, 1987, as such draft regulations may be modified or amended before or after promulgation.

32. "Natural High/Low Tide Line" means the historic high/low tide line that would be observed except for alteration of the shore line by filling, dredging, or impounding.
33. "North End/Downtown Waterfront" means the Downtown Waterfront Subdistrict, North End Waterfront Subdistrict, North End Local Business Subdistrict, Waterfront Park Parkland Open Space Subdistrict, and North End Playground Recreation Open Space Subdistrict.
34. "North End/Downtown Prevailing Shoreline" means the line, so entitled, shown on Map 1E Harborpark District (supplemental to Map 1 Boston Proper).
35. "Open Space" has the meaning set forth in Section 42B-6.
36. "Pedestrian Access Network" means a pedestrian network of a kind and to a degree that is appropriate for the site and consisting of, at a minimum:
- (i) walkways and related facilities along the entire length of the shoreline, and along the edges of any Piers or filled areas, which walkways shall be no less than twelve (12) feet in width; and
 - (ii) appropriate connecting walkways that allow pedestrians access to shoreline and Pier walkways from public ways or other Public Access Facilities to which any Commonwealth Tidelands or Private Tidelands on the site are adjacent.
37. "Pier" means any structure that extends seaward of the High Tide Line, but excluding any floating structure.
38. "Private Tidelands" means Tidelands, the title to which is held by a private person, and which lie between the Natural High Tide Line and either the Natural Low Tide Line or a line running 100 rods (1,650 feet) seaward of the Natural High Tide Line, whichever is farther landward.
39. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change or extension of use of any structure or land (including submerged land and Tidelands), for which the Applicant is required to obtain a building or use permit. A Proposed Project may be built in phases and may include separate or connected building elements on the same Lot.
40. "Public Access Facility" means a facility for pedestrian access to and/or along the waterfront, as provided in clauses (a) and (b) of Subsection 42B-5.2.
41. "Public Agency" means a department, agency, board, commission, authority, or other instrumentality of the Commonwealth of Massachusetts, or one or more political subdivisions of the Commonwealth, or of the United States. For the purposes of this article, the Commonwealth's proprietary interest in Tidelands shall not constitute "ownership" by a Public Agency.

42. "Public Boat Ramp" means any structure that provides public access to or egress from the water for Vessels.
43. "Recreational Marina" means any arrangement of docks, slips, Piers, pilings, moorings, or other facilities in or adjacent to the water, for use primarily by Recreational Vessels, including, but not limited to, any such facility associated with a yacht club or boat club.
44. "Seasonal Dry Storage" means the storage of Recreational Vessels on land for periodic use in the water during the active boating season, generally from April through October.
45. "Sides" of a Pier means the edges of the Pier other than the edge connecting the Pier with dry land and other than the End of the Pier.
46. "Tidelands" means present and former submerged lands and tidal flats lying between the Natural High Tide Line and the seaward limit of state jurisdiction.
47. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.
48. "Upper-Moderate Income Household" means any household whose Annual Income does not exceed 110% of the Median Gross Income of Households in the Boston Standard Metropolitan Statistical Area.
49. "Vessel" means any watercraft, including, but not limited to, a Commercial Vessel or Recreational Vessel, but not including any floating structure permanently moored or attached to land or a Pier.
50. "Vessel, Commercial" means any Vessel used for the principal purpose of engaging in a water-related commercial activity, including, but not limited to, charter boat, fishing boat, tug boat, cruise boat, freighter, or barge.
51. "Vessel, Recreational" means any Vessel used principally for recreational purposes.
52. "Water-Dependent Use" means those uses described as such in Appendix C.
53. "Water-Dependent Facility of Public Accommodation" means a Facility of Public Accommodation that is also a Water-Dependent Use.
54. "Waterfront Yard Area" has the meaning ascribed in Section 42B-7.
55. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.
56. "1880 Harbor Line" means that line established by Chapter 170 of the Massachusetts Acts of 1880.
57. "Pierhead Line" means _____.

Public Information

Public Information Policy

Public information policy is a statement of intent that guides the organization's approach to public information.

Public information policy should be developed and reviewed regularly to ensure it remains relevant and effective.

Public information policy should be communicated to all staff and stakeholders.

Public Information Strategy

Public information strategy is a plan that outlines the organization's approach to public information.

Public information strategy should be developed and reviewed regularly to ensure it remains relevant and effective.

Public information strategy should be communicated to all staff and stakeholders.

Public information strategy should be implemented and monitored.

Public information strategy should be reviewed and updated as needed.

Public Information Policy

A Public Information Policy is a statement of intent that guides the organization's approach to public information. It should be developed and reviewed regularly to ensure it remains relevant and effective. The Public Information Policy should be communicated to all staff and stakeholders.

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APPENDIX C

Water-Dependent Uses

- Water-dependent industrial uses;
- Facilities for fishing, swimming, diving, and other water-based recreational activities;
- Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;
- Aquariums and other cultural, educational, research, or training facilities dedicated primarily to marine purposes;
- Aquaculture facilities;
- Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;
- Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, water deflectors, and the like;
- Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis;
- Marinas, boat basins, Boat Rental Establishments, boating or sailing school, channels, storage areas, and other facilities and establishments for commercial or recreational boating.

Facilities of Public Accommodation

A "Facility of Public Accommodation" means a facility, including a commercial facility, at which goods or services are made available directly to the general public. Facilities of Public Accommodation include, but are not limited to:

- Lunch room, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, provided that there is no dancing nor entertainment other than phonograph, radio and television;
- Place for sale and consumption of food and beverages (other than drive-in restaurant) providing dancing or entertainment or both, provided that such establishment is customarily open to the public at large and does not exclude any minor by reason of age as a prevailing practice;
- Theater;
- Lobbies and public areas of a hotel or motel;
- Library, museum, aquarium, educational, historical, or cultural institution open to the public;
- Adult education center, community center, or other interior space dedicated to the programming of community meetings, informational displays, special recreational events, or other public activities;
- Store primarily serving the local retail business needs of the residents of the neighborhood, including, but not limited to, store retailing one or more of the following: food, baked goods, groceries, drugs, tobacco products, clothing, dry goods, books, flowers, paint, hardware and minor household appliances, but not including packaged alcoholic beverages;

Department store, furniture store, general merchandise mart or other store serving general retail business needs of a major part of the city, including accessory storage;

Barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or dry-cleaner, or similar use;

Tailor shop or hand laundry;

Caterer's establishment, photographer's studio, upholsterer's shop, carpenter's shop, or electrician's shop;

Daycare facility; and

Sports or physical fitness facility open to the public;

Interior facility for water-borne public transportation facilities, recreational marina, boat rental establishment, recreational sailing or boating school, or other recreational boating facility or establishment.

